This act was passed by the 93d Congress in recognition of the need to immediately remedy problems caused by current discriminatory practices used by many lending institutions in granting of credit to women. I had hoped that implementation of these provisions of Public Law 93–495 would rid us completely of such discriminatory techniques which have plagued women for so long. I have, it seems, hoped in vain since the revised regulations proposed in September do not even approach the complete protection envisioned by my colleagues when they enacted this important legislation.

It is even more discouraging to realize that many of the safeguards I speak of were contained in the initial regulations published by the Board on April 25, 1975, and then, by Executive fiat, were deleted in revised regulations published on September 10.

I would like to point out that the Fed has totally ignored the effective date for implementation laid out in the act. Under section 707 it is specified that the title VII provisions would go into effect 1 year after the date of enactment, which was October 28, 1974. Therefore, as legislators, it seems we could reasonably expect that the protections of this law would indeed be in force no later than October 28, 1975. In section 202.13 of the revised regulations, however, the Board calls for "transition periods" relating to rules on major areas in which past offenses have occurred and which are principal to the intent of the law. Despite the fact that Congress directed that this law be in effect by the end of next month, the Fed has chosen to legislate its own final date of November 1976, for full compliance with the act. It is indeed deplorable that this unilateral action by the Fed will mean that women face another year of discriminatory practices.

I would also like to point out weaknesses relating to the civil liability sections of the law. The Board failed to include in its revised regulations a requirement for explanation of denial of credit by the creditor and has indicated that it is only necessary for creditors to keep applications and related documents for a period of 1 year. These regulations can hardly meet the intent of the Congress in imposing a system of redress for grievance under the law, and, in fact, almost make it impossible for the system designed by the Congress to be used at all. As an attorney I am well aware of the length of time involved in civil suits and the need for documentation of claims made under this type of a law. These provisions are not realistic at all in terms of the burdens under which our system of justice is currently operating and I, for one, do not think the 93d Congress intended for the civil liability provisions to be an empty shell.

In summary, Mr. Speaker, I would like to add that the issues I have discussed are but a few of the questions I have regarding the revised regulations. It does seem to me, however, that we must not let the executive branch or bureaucratic and irresponsible independent agencies continue to take over our function. We, the Congress, carry the power and burden of making the laws and the Executive carries the function of implementing the laws we make. I think we should stop letting agencies such as the Fed take over our function by legislating via regulations that have no relation to the intent of the law. In this particular case, a majority of the population of this country is depending on us to see that this landmark legislation is not distorted because of inconvenience to the creditors and lack of interest by the Fed.

I LOVE YOU, AMERICA

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1975

Mr. DE LA GARZA. Mr. Speaker, never have I encountered a better and more moving exposition of what it means to be an American than I read recently in the publication La Voz de Ser, published by Jobs for Progress, Inc., in San Antonio, Tex.

This eloquent article was written by Hugo H. Bayona, a member of the San Jose Chapter of the American GI Forum. It was first published in the Forumeer, the GI forum newsletter, and reprinted in La Voz de Ser by the discerning editor, Jake Rodriguez.

Listen to the words of Hugo Bayona:

America means a great deal to me. It means peace of mind, a land of opportunity, a place where my children can grow without fear and achieve most, if not all, of their dreams. A country to which I can look with pride and never be ashamed to claim as mine.

Mr. Speaker, wishing to share the entire text of this patriotic statement with my colleagues, I include Mr. Bayona's article as part of my remarks:

I LOVE YOU, AMERICA

(By Hugo H. Bayona)

Some people call me Chicano. Others refer to me as Mexican American or even as Pocho. Some even think of me as a Mexican because my face is brown and my speech betrays my early upbringing. To me, however, it matters not how people think or refer to me, or what labels I ascribe to myself, because I am, have always been, and will always be an American.

After all, what's in a name? If I am an American because I was born in this country, which I was; or because I elected to leave my country of birth to seek sanctuary in America, it does not matter whether I was born in Mexico, or France, or Russia. Nor does it matter whether my skin is white, or black, or brown; or whether I have an accent that identifies me with a specific ethnic group. What does matter is that I am an American, and by virtue of being an American, I am no different than any of my other fellow Americans.

I love my country and will gladly die to preserve it. And, in spite of its faults or any disagreement I may have with my fellow Americans about what America is or should be all about, I will never stop loving it, and will always defend it.

America, to me, epitomizes a system of government, and its people, in perfect balance. It is a true democracy. Conceived with the best of intentions by its founding fathers, and nurtured with generations of responsible and dedicated Americans, it has grown to become the true cradle of modern Democracy. And while many have dared to shift the balance of power between the government and its people, I worry not about San Jose Chapter, American GI Forum, its future, because Democracy and its virtues will never perish on the soil of America or the face of the earth.

I am proud of America because it exemplifies to the world an alternative to systems of government where people either live in fear, are oppressed, or are less able to govern their destiny or the destiny of their children. Maybe to them their system of government is better and they prefer it more than they do ours. If that is what they believe, so be it. To me there is no place like America, and I'd rather be here than there.

I love my fellow Americans and respect them, be they rich or poor, Black or Brown, tall or short, Democrats or Republicans. I love them because I neither see them as a threat to my future, or as competitors for that piece of bread on my table, but because I see them as people who have the same right as I to the resources and benefits of a society which we and our ancestors have created for the benefit of all.

I see it as my responsibility to vote, to work toward the betterment of my community, to care about those who are less fortunate than I. And if I am critical of my fellow Americans for trespassing upon the rights of others, it is not because I seek to turn them against me, but because it is the responsibility of every American to fight for and defend the rights of his fellow Americans.

I view America as a country where hard work and self-determination are the key to success: as a country whose creative and imaginative people have built a technology second to none; as a country whose deep concern for world peace and the welfare of other nations has been the rule rather than the exception.

America means a great deal to me. It means peace of mind, a land of opportunity, a place where my children can grow without fear and achieve most, if not all, of their dreams. A country to which I can look with pride and never be ashamed to claim as mine.

I will not be critical of America. At least not today. Because today all I wish to say is: God Bless America! Thank You America! Peace and Goodwill to All.

HOUSE OF REPRESENTATIVES—*Thursday, October 9, 1975*

The House met at 10 o'clock a.m.

Dr. E. W. Mueller, Brandon Lutheran Church, Brandon, S. Dak., offered the following prayer:

Father, God, we have cause to praise You for many reasons. At this time we praise You for the freedom of choice. While You are involved in the affairs of this Earth, You have given people the responsibility to care for the Earth and one another.

The citizens have elected the Members of this House to make choices and decisions in the best interests of mankind. With freedom of choice goes responsibility and accountability in which all citizens share.

Dear God, we ask that You give to

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

each Member who speaks, listens, and votes in this House a large measure of wisdom, courage, energy, hope, and the assurance that they can call on You for direction.

Praise be to You our Creator, Redeemer God. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the further report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8121) entitled "An act making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes," and that the Senate had agreed to the amendment of the House to the amendment of the Senate numbered 8, to the foregoing bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1542) entitled "An act to authorize appropriations for the fiscal year 1976 for certain maritime programs of the Department of Commerce, and for other purposes."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2308. An act to provide for the modification of the boundaries of the Bristol Cliffs Wilderness Area.

DR. E. W. MUELLER

(Mr. PRESSLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRESSLER. Mr. Speaker, I am deeply pleased and honored that the invocation for today was delivered by my constituent, Dr. E. W. Mueller.

A retired Lutheran minister, Dr. Mueller grew up on a farm in Iowa. He graduated from the University of Iowa in 1930 and was ordained a pastor at Dubuque Seminary in 1933. His first assignment was a rural parish in Martinsdale, Iowa, where he served for 12 years. During this time, Dr. Mueller became concerned about the needs of people in rural areas. In 1945 he was called by his denomination to a national position as secretary of Churches in Towns and Counties. In this position he became involved with various programs affecting rural America.

In 1960 the National Association of Conservation Districts recognized his contribution in soil and water conservation by awarding him with a Distinguished Service Medal at their national meeting in Memphis, Tenn. In 1963 the National Cooperative Extension Service recognized his contribution to rural youth by awarding him their Partners in 4–H Award. In 1969 he became the director of the Center for Community Organization and Area Development sponsored by Augustana College in Sioux Falls, S. Dak. The aim of this organization is to help citizens at the regional level have a greater part in shaping their own future. Dr. Mueller is presently associated with the Lutheran Church in Brandon, S. Dak., and is a staff member of Augustana College.

Dr. Mueller is in Washington to better acquaint himself with Federal programs affecting rural America. A senior citizen, he is vitally interested in the problems of older Americans in rural communities, isolated not only by age but also by locality. I am delighted to welcome Dr. Mueller to this Chamber and thank him for his inspiring words today.

MR. NESSEN, THERE ARE 435 MEMBERS OF THE HOUSE

(Mr. FUQUA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUQUA. Mr. Speaker, in reading the abbreviated edition of this morning's Washington Post, I notice where the President's newly self-appointed economic adviser, Mr. Ron Nessen, is quoted as criticizing some 435 Members of the House in not rapidly passing the President's tax cut and Budget Reduction Act.

It appears that Mr. Nessen's knowledge of Congress equals that of his knowledge of economics.

PERMISSION FOR COMMITTEE ON BANKING, CURRENCY AND HOUSING TO HAVE UNTIL NOON FRIDAY, OCTOBER 10, 1975, TO FILE A REPORT ON H.R. 10024

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Currency and Housing have until 12 o'clock noon Friday, October 10, 1975, to file a report on H.R. 10024.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

CONFERENCE REPORT ON H.R. 7706, SUSPENSION OF DUTY ON NATURAL GRAPHITE; STAFFING STANDARDS FOR CHILD DAY CARE UNDER SOCIAL SERVICES PROGRAM; SERVICES FOR INDIVIDUALS SUFFERING FROM ALCOHOL OR DRUG ABUSE

Mr. CORMAN. Mr. Speaker, pursuant to the unanimous consent request agreed to on Tuesday, October 7, 1975, I call up the conference report on the bill (H.R. 7706) to suspend the duty on natural graphite until the close of June 30, 1978, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 7, 1975.)

Mr. CORMAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, I reserve the right to object.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 606]

Andrews, N.C.	Fraser	Peyser
AuCoin	Giaimo	Pike
Badillo	Goldwater	Quie
Bafalis	Gude	Rees
Beard, R.I.	Harsha	Riegle
Biester	Hébert	Risenhoover
Bolling	Heckler, Mass.	Roybal
Bonker	Hefner	Runnels
Bowen	Henderson	Ryan
Brown, Calif.	Hinshaw	Santini
Burke, Calif.	Jarman	Satterfield
Burke, Fla.	Johnson, Colo.	Scheuer
Butler	Lehman	Sisk
Chisholm	McClory	Solarz
Clay	McCormack	Spellman
Conyers	McDade	Stanton,
Delaney	McKinney	James V.
Dellums	Macdonald	Steelman
Dickinson	Matsunaga	Stokes
Diggs	Metcalfe	Symington
Drinan	Mitchell, Md.	Taylor, N.C.
Early	Mitchell, N.Y.	Teague
Edwards, Calif.	Mollohan	Udall
Esch	Mosher	Waxman
Eshleman	Murphy, N.Y.	Weaver
Evins, Tenn.	O'Brien	Wilson, Bob
Fary	O'Hara	Wilson, C. H.
Ford, Tenn.	Passman	Young, Alaska
Fountain	Pepper	

The SPEAKER. On this rollcall 348 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON H.R. 7706, SUSPENSION OF DUTY ON NATURAL GRAPHITE; STAFFING STANDARDS FOR CHILD DAY CARE UNDER SOCIAL SERVICES PROGRAM; SERVICES FOR INDIVIDUALS SUFFERING FROM ALCOHOL OR DRUG ABUSE

The SPEAKER. Is there objection to the request of the gentleman from California (Mr. CORMAN) that the statement be considered as read?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so only for the purpose of asking the gentleman from California (Mr. CORMAN) if my understanding of the situation is correct.

The gentleman received permission at some previous time when I was obviously not on the floor to call up this bill today. It contains two totally nongermane amendments added by the other body, one of which cuts from 6 months to 4 months the moratorium on proposed HEW regulations governing the operation of day care centers. That is the blackmail provision, as the gentleman from Maryland sees it, since I and most other members support this provision. But that is not all.

The other nongermane amendment, as I understand it, reallocates or allows the possible reallocation of about $2½ billion worth of funds, or some part thereof, away from senior citizens, mental health and other title 20 programs, into alcohol and drug programs.

This second amendment has had no hearings by the House, has never been the subject of consideration by the Committee on Ways and Means except in this conference, and we are asked today to vote on this fundamental change, even though it is for 4 months, totally without notice.

Is that correct? Am I being too harsh on the other body?

Mr. CORMAN. If the gentleman will yield, to start with, as to the first proposition, I do not know where the gentleman was when we asked for the unanimous consent 2 days ago.

So far as the gentleman's analysis is concerned, the situation is not nearly as bad as he indicates. The gentleman will recall that some 2 or 3 weeks ago the House passed a bill that would have suspended for 6 months the regulations for day care centers.

The conference report on H.R. 7706 provides for a 4-month delay until January 31, 1976, in the enforcement of certain provisions regarding staffing standards for a child day care center required in title XX of the Social Security Act. The conference report also accepts with modifications certain amendments added by the Senate regarding the provision of social services to alcoholics and drug addicts.

The House on September 29 adopted in H.R. 9803 a provision to suspend for 6 months the penalties for day care centers which do not meet certain staffing requirements as required under title XX of the Social Security Act. The delay was found necessary because many day care centers and group day care homes were found to be unable to meet the requirements which were effective on October 1 and thus would have lost Federal matching for day care services under title XX.

In acting on this issue the Senate chose not to use H.R. 9803 but instead added an amendment to H.R. 7706, a bill to suspend until the close of June 30, 1978, the duty on natural graphite. The Senate accepted the House language regarding the duty on graphite. The amendment provided a 1-month delay as to the imposition of the penalties for not meeting day care staffing ratios standards under title XX. The conference report now before the House contains a compromise as to the length of delay in imposing the penalties regarding day care standards at 4 months until January 31, 1976, to give the Congress additional time to deal with this issue. The conferees accepted certain amendments in the Senate bill to make the same rules applicable to two other day care programs under the Social Security Act.

A second Senate amendment made explict the application of the confidentiality of records provisions of Public Law 93–282, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974 to the provision of services to alcoholics and drug addicts under title XX of the Social Security Act. The Alcoholism Act as amended in 1974 itself provides that it is applicable to all Federal or federally assisted programs to States. A second portion of this amendment would permit up to 7 days detoxification for an alcoholic or drug addict when it is a subordinate part of a longer term rehabilitation program. The Senate amendment would have made these provisions permanent and the conferees agreed to accept them until January 31, 1976.

This amendment was added in the Senate because some States have found problems with the limitations contained in the title XX regulations to implement the provisions in the law which limit the use of social services funds for the medical components of service programs for those with alcoholism and drug abuse problems and the additional 4 months would provide time to try to solve this problem.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, if this permission to reallocate, even with a limitation of $2½ billion or some part thereof, is operable for the next 4 months, is it not true that our programs for senior citizens and the mentally retarded, as well as other programs, will have to suffer in some degree so money can be transferred to an alcoholism or drug program?

Mr. CORMAN. Mr. Speaker, if the gentleman will yield further, that is dependent on what the States do with their money. We are merely giving them a small amount of latitude as to what they can put in their alcoholism programs. It is true that there is a finite number of dollars in the various programs for each purpose.

It is our understanding that the only State that has run into a problem on this matter is the State of Maine, so there was a commitment on the part of HEW that they would attempt to work out Maine's problems without having to resort to some other action.

Mr. VANDER JAGT. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Michigan, and before I do I want to compliment him for his diligent fight in the conference to limit the excesses of the amendments proposed by the other body.

Mr. VANDER JAGT. Mr. Speaker, there is little I can add to the explanation given by the gentleman from California (Mr. CORMAN).

I support the action of the conferees on H.R. 7706, because I believe it represents the best legislative solution obtainable under the circumstances.

As my colleagues know, H.R. 7706, as passed by the House, would suspend for 3 years the duty on natural graphite. The other body did not change this measure, but added amendments to social services provisions in title 20 of the Social Security Act.

The first amendment, concerning staffing standards for day care centers and homes, is related to H.R. 9803, which we passed by unanimous consent just 10 days ago. The primary aim of H.R. 9803 was to permit Federal funding for day care services under title 20 to continue for 6 months even if the providers of those services could not meet certain staff-to-child ratios required by law and regulations.

A number of providers had said they would have to cease operating if the standards were enforced. The purpose of the 6-month delay was to allow time for our committee to reexamine the standards in the light of recently raised compliance problems.

The other body preferred a 1-month postponement and its first amendment to H.R. 7706 was so designed.

The conferees decided upon a 4-month postponement, and while I would have preferred the House version, I feel the compromise is workable.

The other amendment to H.R. 7706 would make several changes in title 20 with respect to social services for alcoholics and drug addicts. One change would protect the confidentiality of records pertaining to those receiving treatment. The other two would liberalize substantially the extent to which social services funds could be used in the medical treatment of alcoholics or addicts. For example, whereas present law restricts social services funding for persons living in medical institutions, the amendment would make an exception for the initial detoxification of an alcoholic or drug addict for a period not to exceed 7 days.

Because of a concern on the part of some participants, including this Member, as to the need for the amendment, the conferees decided to give it the same termination date—January 31, 1976—as the first amendment.

I certainly have no quarrel with assuring confidentiality of records in these cases. I am fully in sympathy with efforts to rehabilitate alcoholics and addicts, and I am not going to oppose the conference decision because of the second amendment.

But I do have serious reservations about the desirability of continuing that amendment beyond 4 months. I am not convinced that title 20 is the best legislative vehicle to use for the treatment and rehabilitation of alcoholics and addicts, and I am concerned about the potentially precedent-setting nature of the amendment.

It might be argued that if exceptions to the present limitations on title 20 medical services are made for alcoholics and drug addicts, exceptions should be made for others, such as the mentally ill.

It should be noted additionally that title 20 includes a limitation on Federal social services funding. My colleagues will recall that in 1972 we imposed a ceiling of $2.5 billion after rapidly increasing use of this formerly open-ended program had caused Federal costs to soar. Had we not taken that action, it is entirely possible that Federal funding for social services would, by now, have reached a level twice as high as $2.5 billion.

Because there is a limit on the amount of Federal money for social services, there is understandably some very active competition for the available dollars among numerous organizations and individuals. If substantial sums were diverted from current recipients to the treatment of drug addicts and alcoholics, those who lost funding could be expected to protest. This in turn could lead to greater pressure on the Congress to lift the social services ceiling. And once we pulled the finger out of that dike, we would be inundated.

I also am concerned about the broad applicability of this amendment in view of what may be one rather narrow need. It is my understanding that the change was sought primarily by the State of Maine, which has a special problem. I do not know if other States have the same problem or share the need. Therefore, I have some reservations about imposing this amendment on 49 States without knowing if that is either desirable or necessary.

However, as I stated earlier, Mr. Speaker, I do not intend to oppose the conference package because of this one amendment. I did wish to call my colleagues' attention to some concerns I have about that amendment, and to suggest that further and deeper exploration be conducted in this body before we agree to an extension of its life beyond 4 months.

If we, through hearings and through experience, discover this is a good idea, we in legislation can make it a permanent part of the law. If, through hearings and through experience, decide it is not a good idea, it will expire of its own weight and with the passage of time on January 31.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I assume that these reallocations of funds will occur in various States, even though this is designed to solve the problem in the State of Maine since all 50 States can participate.

If these reallocations do occur, then there will be demands made for the removal of the $2.5 billion ceiling on title 20 funds and for an increase in spending for such programs to make up for the loss of revenue resulting from these transfers this bill permits. So we are really opening the door to an increase in welfare spending to some greater magnitude beyond the established ceiling of $2.5 billion this Congress has already enacted.

Mr. VANDER JAGT. Mr. Speaker, the gentleman is correct in his statement that competition or extension of competition for funds that are limited could take place.

However, I believe this will have a minimum impact nationwide. The gentleman knows the nature of governmental bureaucracy as well as I, and can understand why it is unlikely that many States could gear up and institute a program in 4 months' time.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I appreciate the explanations given by both of the gentlemen who have handled this bill. I would only observe that procedurally under normal conditions I assume a bill of this magnitude would have been debated for some time before the Committee on Ways and Means, brought to the floor, with a rule that would have permitted full and free debate.

Yet, in less than 20 minutes today with this limited debate this fundamental change in the law is proposed for passage.

I think that is a very fortunate derogation of the rights of the Members of the House who are asked to represent their people here and to knowledgeably vote on the matters that come before us.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Yes, I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I question whether or not they have done their best.

I get sick and tired, as one Member, of seeing that every time the Committee on Ways and Means comes back, they seem to be the one committee that has the privilege of overriding the supposed reform we had in this House to prevent the other body from blackmailing this House.

I begin to wonder about the Committee on Ways and Means. I think it is a privileged institution which seems to have the right to waive the rules of this House, particularly since we spent so much time in a so-called reform to prevent this very situation from happening. Therefore, Mr. Speaker, I question how well they did in this instance.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CORMAN. Mr. Speaker, I urge adoption of the conference report on H.R. 7706 which provides for a 4-month delay until January 31, 1976, in the enforcement of certain provisions regarding staffing standards for a child day care center required in title XX of the Social Security Act. The conference report also accepts with modifications certain amendments added by the Senate regarding the provision of social services to alcoholics and drug addicts.

The House on September 29 adopted in H.R. 9803 a provision to suspend for 6 months the penalties for day care centers which do not meet certain staffing requirements as required under title XX of the Social Security Act. The delay was found necessary because many day care centers and group day care homes were found to be unable to meet the requirements which were effective on October 1 and thus would have lost Federal matching for day care services under title XX.

In acting on this issue the Senate chose not to use H.R 9803, but instead added an amendment to H.R. 7706, a bill to suspend until the close of June 30, 1978, the duty on natural graphite. The Senate accepted the House language regarding the duty on graphite. The amendment provided a 1-month delay as to the imposition of the penalties for not meeting day care staffing ratios standards under title XX. The conference report now before the House contains a compromise as to the length of delay in imposing the penalties regarding day care standards at 4 months until January 31, 1976, to give the Congress additional time to deal with this issue. The conferees accepted certain amendments in the Senate bill to make the same rules applicable to two other day care programs under the Social Security Act.

A second Senate amendment made explicit the application of the confidentiality of records provisions of Public Law 93–282, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974 and to provision of services to alcoholics and drug addicts under title XX of the Social Security Act. The Alcoholism Act as amended in 1974 itself provides that it is applicable to all Federal or federally assisted programs to States. A second portion of this amendment would permit up to 7 days detoxification for an alcoholic or drug addict when it is a subordinate part of a longer term rehabilitation program. The Senate amendment would have made these provisions permanent and the conferees agreed to accept them until January 31, 1976.

This amendment was added in the Senate because some States have found problems with the limitations contained in the title XX regulations to implement the provisions in the law which limits the use of social services funds for the medical components of service programs for those with alcoholism and drug abuse problems and the additional 4 months would provide time to try to solve this problem.

I believe the conference report on H.R. 7706 is an acceptable compromise and will give the Congress time to deal with these issues and I hope it will be approved by the House.

Mr. TREEN. Mr. Speaker, I want to commend the gentleman from California (Mr. CORMAN), the gentleman from Michigan (Mr. VANDER JAGT) and the other Members of the Conference as well as Congressman JONES for their leadership in obtaining a postponement of the unrealistic HEW staff child ratios for day care centers.

When it became evident that the Department of Health, Education, and Welfare was unable to modify the implementation of their title XX regulations as they pertain to day care, I introduced H.R. 9648 on September 17. My State along with 47 others was faced with a complete cutoff of funds for day care centers which accepted the children of parents benefiting from such programs as Aid to Families of Dependent Children and the Work Incentive program. Many of these parents along with many others who receive not a single Federal penny

for the care of their children faced the very immediate prospect that their child's day care center would have to close October 1. Since neither the Senate nor the Department of Health, Education, and Welfare were ready to act, it was the prompt response of Chairman Corman and the Public Assistance Subcommittee meeting on September 22 that kept day care centers in business in my State.

Although I would have preferred a 6-month postponement of these regulations as I and 20 other Members proposed in H.R. 9648 and 9750, and as the House passed in H.R. 9803, I support this report. These 4 months can give us an opportunity to hold hearings to determine realistic staff child ratios for a day care center. Let me say frankly that I would not be disappointed if we chose to continue to recognize compliance with state licensure laws to be the only staff/child ratios enforced at the Federal level.

I would remind my colleagues that Congress has never studied the wisdom of the Federal Interagency Day Care Requirements. On September 22 Steven Kurzman of the Department of Health, Education, and Welfare testified "the Department has long believed that the 1968 FIDCR standards should be reexamined to determine whether they are the most appropriate means to those ends."—That is, good quality at a reasonable cost. The Department has stated in a letter to Senator RUSSELL LONG that they have conducted no studies to determine the financial impact of their title XX staff child ratios.

When questioned by Mr. BAFALIS, HEW stated that their staff child ratios for children under 3 years of age were based on the recommendations of the American Academy of Pediatrics and the Child Welfare League. Both of those parties have been very careful to state that their recommendations are not based on research and should be studied before being given the weight that HEW has attributed to them. In a letter of September 24, 1975, addressed to Garland L. Bonin, Louisiana Health and Human Resources Administration, Joseph H. Reid, executive director of the Child Welfare League of America, stated:

> You state that "I was informed by the Department of Health, Education, and Welfare that the Child Welfare League developed the staff/child ratios of the Federal Interagency Day Care Requirements. . . and the subsequent title XX regulation." We would appreciate knowing who gave you this information, since it is completely inaccurate . . . CWLA Standard for Day Care Service . . . as noted on page X of the foreword, "are intended to be goals for continuous improvement of services to children. They are not the criteria for accreditation for League membership . . . They represent the practices considered to be most desirable in providing those social services which the community offers.

In their publication, "Recommendations for Day Care Centers for Infants and Children," the American Academy of Pediatrics states:

> The standards which are advocated here are based on current usage. Their origins and even their validity are not even clear. Until research evaluates present standards and programs for children of this age group, the use of current programs and their modification in the direction suggested by research is the best approach. The basic standards will be of relatively limited usefulness unless they are accompanied by recommendations to promote the further improvement of services. Considerable effort will need to be expended by the Academy and others to develop recommendations which supplement these basic standards. Recommendations for Day Care Centers for Infants and Children is in an effort to outline desirable practices and direction. It does not seek to define a minimum level of services.

It does not make sense to me that the Congress would authorize HEW to study what day care staff child ratios were appropriate between now and July 1, 1977, and yet impose, before that study is complete, unsubstantiated standards on all 50 States. I believe that my State has every reason to ask for a waiver from these ratios, such as that given Minnesota under title IV of the 1972 act. It hopes that the 1977 study would show the impracticality of the 1968 Federal Interagency Day Care Requirements. Those requirements, let us not forget, were developed for economically deprived children in the Headstart program. It did not reflect the educational needs of the average child or the financial capability of the average parent or government unit.

I must confess that I am surprised that the $500,000 2-year nationwide study of day care center licensing by HEW's Office of Child Development concluded Friday, June 29, 1973, did not produce any findings to support the 1968 Federal Interagency Day Care Requirements. But in the absence of such findings and in the absence of hearings before the House passage last year of H.R. 17045—which required one adult for every two children under the age of 3—I would urge these unproven standards be postponed time and again until Congress and HEW seriously studies the need for any Federal staff/child ratios and the evidence supporting any particular ratio.

In conclusion, Mr. Speaker, I ask that there be included in the RECORD a copy of the resolution of the Southern Governors Conference of September 15, 1975, and the rationale prepared by the Louisiana State—4–C title XX Committee for the waiver of these ratios in Louisiana. I urge adoption of this conference report and the holding of hearings in the immediate future on this problem.

The articles follow:

7. DAY CARE STANDARDS

Whereas, the Day Care Standards established in Public Law 93–647 (Title XX of the Social Security Act) and subsequent regulations require increased staff to child ratios in day care facilities receiving federal funds, which are unnecessary and will force facilities to raise their charges for services to all mothers and families; and,

Whereas, these standards will impose an increased financial burden on private citizens and the state and federal governments who will have to pay for the increased staffing of day care facilities in a period of inflation and economic uncertainty; and

Whereas, if day care facilities are forced to meet these standards the effect will be disastrous for working mothers throughout the country and will actually infringe on the rights of women and their ability to pursue a career because of the astronomical and prohibitive increase in the cost of day care services which will force mothers to leave their employment and go on the welfare rolls; and

Whereas, the requirement of specific federal standards to apply in all cases throughout the country is another example of the alarming trend of the federal government in dictating policy to the states.

Now, therefore, be it resolved by the Governors of the Southern Governor's Conference that the states ask the Congress to amend the law to allow states the option of applying their own day care standards and further ask the Secretary of HEW to suspend the effective date of October 1, 1975 for the enforcement of these standards to allow the Congress time to study and consider the amendment of the law and to evaluate the impact of these regulations on the economy and working mothers.

RATIONALE FOR WAIVER OF TITLE XX OF THE SOCIAL SECURITY ACT

80% of a child's sensory, motor and cognitive development takes place between the ages of 0–8 years.

Like a blank slate, children are born waiting for the indelible marks to be written upon their lives by the society in which they live. In Louisiana there are 4,200 slates which Title XX could possibly scar irrevocably and unfavorably affect the lives of our children. It is we, the people and the society in which they live, that must assure that Louisiana's children grow with experiences that will be beneficial to them and enable them to become better members of society.

Because of the far reaching adverse effects upon Louisiana, Title XX of the Social Security Act P.L. 937, Section 2002(a)(9)(A), and subsequently the regulations 45 CFR 228.42 regarding staff/child ratios should be waived for Louisiana. There are five major issues upon which the rationale (and conclusion) for this request was based, namely: (1) Children; (2) Agencies; (3) Economic; (4) Research; (5) Resources. The enforcement of the staff/child ratios will foster situations which are developmentally unsound for children; administratively constrictive on agencies and programs delivering service; and economically prohibitive for the total community involved.

The first and foremost consideration in regards to the child/staff ratios was in the relationship to children. There exists within our country and state many inconsistancies in regulations governing child/staff ratios. There are separate child/staff ratios for head start, hospitals, special education, public education, mental health, mental retardation, private education and within the natural family. After investigation it was noted that the Title XX child/staff ratios were more stringent than any of the aforementioned. Special emphasis should be placed upon the fact that hospitals caring for newborn infants have a substantially larger ratio than one-to-one. The Title XX child/staff ratios also defy the natural family as we generally accept it. Mothers with one or more preschool children and newborn infants or the mothers of twins have survived and produced developmentally sound and healthy children for generations.

The child/staff ratios will create a dual system and promote segregation and discrimination among children. It will result in a separation, restricting interaction between poor and middle class children, fostering social ills which we as a society are trying to eliminate through the Civil Rights Act and other legislation.

To subject children to Title XX child/staff ratios in Louisiana will place them in an environment that cannot foster ultimate cul-

tural, emotional, physical, social and intellectual development of a child. In particular, the child/staff ratios would discourage social interaction with other children and promote emotional dependence on adults.

The large number of adults only create more adult/adult relationships and consequently give birth to unrealistic situations for the child, i.e. natural family vs "adult" imposition at the day care centers. In addition, administrative barriers arise in the area of personnel supervision.

It will be impossible to recruit across the state enough trained staff to fulfill Title XX child/staff ratios. Untrained, unqualified staff cannot promote a healthy environment for children.

Different children have different needs. Title XX regulations do not have flexibility in the delivery of services and do not enable Louisiana to effectively meet the varied needs of her children.

Children in Louisiana will not benefit from the Title XX child/staff ratios and there is strong evidence to indicate that the regulations will be harmful to them.

AGENCIES

Adequate day care services often serves as an alternative to family breakdowns. Many children currently in day care centers would have to be removed from the family and placed in foster homes and other environments outside the home. Additional staff would be needed in Protective Services and Foster Care Services to plan for care of children who will no longer have day care services available. This would be more expensive for the taxpayer as foster care is more expensive than day care. It would also be detrimental to the children as being placed in day care and able to remain with the family is far more beneficial to the child than total separation.

The lack of adequate day care services would affect the entire AFDC program for the State of Louisiana. AFDC mothers will be deprived of seeking employment or training which adversely affects the WIN training programs, thus preventing the agency as well as recipients from reaching the goals of self support, which is also a major goal of Title XX.

There will also be an increased administrative responsibility of licensing of centers. There will exist within the State of Louisiana two sets of licensing standards which will increase the work load of licensing workers.

The agency will be faced with the problem of how to determine the staff/child ratios in centers using the dual system. The licensing workers, in turn will be faced with the additional responsibility of making that difficult judgment in each individual case.

If, in fact, the staff/child ratios are not waived for Louisiana and the services must therefore be decreased, the agency will be responsible for deciding who will receive services and which children and families will no longer be served.

The legal implications of not providing services for families who are clearly eligible and need social services to combat problem areas of alleviating dependency must be considered. It is possible that legal action may be taken to assure that these services be provided.

ECONOMIC

Currently there are 4,200 children served under the present Title IV–A day care program. There are 234 day care centers which qualify as providers.

Research conducted by Louisiana Division of Family Services with the day care centers to receive Title XX funds indicates that: Enforcement of Section 228.42 of the Title XX regulations will adversely affect 44 of these centers and will force 588 children to be without services.

If the amount of funding currently available remains stable and the Title XX child/staff ratios are not waived, it will be economically impossible for any AFDC centers to remain open. These centers will not be able to survive and will be forced to close. A closure of these centers increases unemployment of staff and AFDC mothers in various training programs. This action removes one of the primary goals of self support.

If the level of state funding is raised, the cost of providing day care services to the poor will still prohibit the middle class family from purchasing services at centers caring for Title XX eligible children. Consequently, there will be one set of licensing regulations governing the poor, and another set regulating those centers not receiving federal funds.

There is also the overriding concern that the Title XX child/staff ratios would eventually become standards for all facilities caring for children in Louisiana, to avoid the dual system. This action is being considered in other states. If it becomes reality in Louisiana, the cost of day care would be astronomical. Only a few or no programs could afford to be licensed and most of the church related and private centers would be forced to close or to go "underground", as middle income parents would be unable and unwilling to pay such prohibitive costs. "Underground" day care affords no regulations and the safety, health, and wellbeing of Louisiana's children is threatened. This is not acceptable in Louisiana.

Perhaps one of the most significant economic considerations that becomes apparent is that closing of any day care centers will have a negative multiplying effect on the communities and ultimately the state.

In the day care segment of the community the cash flow will halt, unfavorably affecting the total economy.

RESEARCH

A 4–C licensing committee was established in Louisiana to study licensing regulations and in particular the staff/child ratios needed for children. Representatives from Louisiana Health and Human Resources Administration; Divisions of Family Services, Mental Health, Health and Youth Services; Department of Education, Louisiana Community Services Administration (formerly OEO); Head Start Louisiana Federation of Child Development Centers; Louisiana Association for Children Under Six; Louisiana Home Economics Association; Women in Politics; Louisiana Coalition of Local 4–C Parents; Louisiana Association of Parents Concerned with Child Care; the State Fire Marshall's Office; University Child Development Specialists; and Title IV–A Contract Centers met over a period of a year and came up with the regulations now governing staff/child ratios in Louisiana.

This was, in fact, a brain trust. These were the best possible authorities on day care in the state, reflecting all segments of the child caring community. Over a period of a year, regulations were developed recognizing the economic and social conditions in our state. This is a basic form of research and indicates the child/staff ratios were developed in Louisiana by Louisianians for Louisiana children with their benefit and protection as a foremost consideration.

The Title XX 4–C Committee individually and collectively have been unable to document evidence indicating that the Title XX child/staff ratios were based on any type of research or study. There does not appear to be any indications of how the ratio will affect children culturally, emotionally, socially, intellectually, and physically; families; providers and deliverers of day care services.

Title XX does take into account economic, social, or cultural differences throughout the country. It mandates the same regulations throughout the entire nation.

The ratios in Louisiana should not be implemented until such time as research is carried out to determine the following:

1. Developmental effects on Louisiana's children.
2. Cost of delivering quality day care services.
3. Positive vs negative effects on recipients of such services.
4. Effects on the family structure and stability.
5. Fire safety standards of Louisiana.
6. Effect on training of adequate personnel.

Child/staff ratios for Louisiana centers should reflect the basic needs of the children in this state.

INADEQUATE RESOURCES

Resource problems created by the implementation of the Title XX staff/child ratios includes:

1. Existing facilities will be inadequate to meet physical needs for space, i.e. kitchen, play area, parking, bathroom facilities due to an increased number of adults;
2. Fire and sanitation regulations will need to be modified drastically;
3. Lack of trained early childhood development personnel to meet staff requirements;

There is overwhelming evidence and adequate justification for the waiver of Title XX of the Social Security Act, P.L. 93–647, Section 2002(a)(9)(A)(B)(C), staff/child ratios in the 45 CFR 228.42 and the Louisiana 4–C Title XX committee respectfully submit the following document as justification for this waiver.

Submitted by:

(Mrs.) BETTY B. BLAZE,
Chairman, State 4–C Title XX Committee.

Mr. DOMINICK V. DANIELS. Mr. Speaker, I rise in support of the conference report on H.R. 7706, to suspend the duty on imported natural graphite until June 30, 1978.

This legislation will end a tariff that has long since outlived its intended purpose. When tariffs on natural graphite were first imposed in the early 1900's, there were approximately 80 domestic producers of graphite. The tariff was needed to protect these domestic producers against cheaper foreign imports. However, over the years, domestic producers have abandoned their operations in the face of slow market growth in sales, high costs of production and low grades of domestic ore.

Today, one single graphite producer remains, and this single producer imports a substantial amount of foreign graphite to blend with domestically produced material. About one dozen companies in the United States import, process, and sell graphite products to a large number of manufacturer users of graphite, but processing and selling is usually done on a custom basis, given the specialized nature of the market.

The tariff on imported graphite is not protecting our single domestic producer—and given the increasing price of imported graphite, the ad valorem tariff serves only an inflationary purpose.

When graphite products are processed here in the United States and then sold abroad, the ad valorem tariff serves only to increase the price of the American products and thus makes them less competitive with foreign graphite products. This obviously is not in the best interest of the United States, in terms of international trade.

Mr. Speaker, the International Trade Commission has no objection to the elimination of the tariff on graphite, and

because of the positive effect that elimination of the tariff will have on domestic graphite processors and our single domestic graphite producer, I strongly urge my colleagues to vote for the passage of the conference report on H.R. 7706.

Mr. CORMAN. Mr. Speaker, I have no further requests for time and I move the previous question on the conference report.

The previous question was ordered.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 383, nays 10, answered "present" 1, not voting 39, as follows:

[Roll No. 607]

YEAS—383

Abdnor	Cleveland	Gilman
Abzug	Cochran	Ginn
Adams	Cohen	Gonzalez
Addabbo	Collins, Ill.	Gradison
Alexander	Collins, Tex.	Grassley
Ambro	Conable	Green
Anderson, Calif.	Conte	Gude
	Conyers	Guyer
Andrews, N. Dak.	Corman	Hagedorn
	Cornell	Haley
Annunzio	Cotter	Hall
Archer	Coughlin	Hamilton
Armstrong	D'Amours	Hammer-schmidt
Aspin	Daniel, Dan	
AuCoin	Daniel, R. W.	Hanley
Badillo	Daniels, N.J.	Hannaford
Baldus	Danielson	Hansen
Barrett	Davis	Harkin
Baucus	de la Garza	Harrington
Beard, R.I.	Delaney	Harris
Beard, Tenn.	Dellums	Harsha
Bedell	Dent	Hastings
Bell	Derrick	Hawkins
Bennett	Derwinski	Hayes, Ind.
Bergland	Devine	Hays, Ohio
Bevill	Diggs	Hechler, W. Va.
Biaggi	Dingell	Heckler, Mass.
Biester	Dodd	Heinz
Bingham	Downey, N.Y.	Helstoski
Blanchard	Downing, Va.	Hicks
Blouin	Drinan	Hightower
Boggs	Duncan, Oreg.	Hillis
Boland	Duncan, Tenn.	Holland
Bolling	du Pont	Holt
Bonker	Early	Holtzman
Bowen	Eckhardt	Horton
Brademas	Edgar	Howard
Breaux	Edwards, Ala.	Howe
Breckinridge	Edwards, Calif.	Hubbard
Brinkley	Eilberg	Hughes
Brodhead	Emery	Hungate
Brooks	English	Hutchinson
Broomfield	Erlenborn	Hyde
Brown, Calif.	Esch	Ichord
Brown, Mich.	Eshleman	Jacobs
Brown, Ohio	Evans, Colo.	Jarman
Buchanan	Evans, Ind.	Jeffords
Burgener	Fascell	Jenrette
Burke, Calif.	Fenwick	Johnson, Calif.
Burke, Mass.	Findley	Johnson, Colo.
Burleson, Tex.	Fish	Johnson, Pa.
Burlison, Mo.	Fisher	Jones, Ala.
Burton, John	Fithian	Jones, N.C.
Burton, Phillip	Flood	Jones, Okla.
Butler	Florio	Jones, Tenn.
Byron	Flowers	Jordan
Carney	Flynt	Karth
Carr	Foley	Kasten
Carter	Ford, Mich.	Kastenmeier
Casey	Forsythe	Kazen
Cederberg	Fountain	Kelly
Chappell	Frenzel	Kemp
Chisholm	Frey	Ketchum
Clancy	Fuqua	Keys
Clausen, Don H.	Gaydos	Kindness
	Giaimo	Koch
Clawson, Del	Gibbons	Krebs
Krueger	Natcher	Shriver
Lagomarsino	Neal	Sikes
Landrum	Nedzi	Simon
Latta	Nix	Skubitz
Leggett	Nolan	Slack
Lehman	Nowak	Smith, Iowa
Lent	Oberstar	Smith, Nebr.
Levitas	Obey	Snyder
Litton	O'Hara	Spence
Lloyd, Calif.	O'Neill	Staggers
Lloyd, Tenn.	Ottinger	Stanton, J. William
Long, La.	Patman, Tex.	
Long, Md.	Patten, N.J.	Stanton, James V.
Lott	Patterson, Calif.	
Lujan		Stark
McClory	Pattison, N.Y.	Steed
McCloskey	Perkins	Steelman
McCollister	Pettis	Steiger, Wis.
McCormack	Pickle	Stephens
McDade	Pike	Stokes
McEwen	Poage	Stratton
McFall	Pressler	Stuckey
McHugh	Preyer	Studds
McKay	Price	Sullivan
McKinney	Pritchard	Symington
Macdonald	Quie	Talcott
Madden	Quillen	Taylor, Mo.
Madigan	Railsback	Teague
Maguire	Randall	Thompson
Mahon	Rangel	Thone
Mann	Rees	Thornton
Martin	Regula	Traxler
Mathis	Reuss	Treen
Mazzoli	Rhodes	Tsongas
Meeds	Richmond	Udall
Melcher	Rinaldo	Ullman
Meyner	Risenhoover	Van Deerlin
Mezvinsky	Roberts	Vander Jagt
Michel	Robinson	Vander Veen
Mikva	Rodino	Vanik
Milford	Roe	Vigorito
Miller, Calif.	Rogers	Waggonner
Miller, Ohio	Roncalio	Walsh
Mills	Rooney	Wampler
Mineta	Rose	Weaver
Minish	Rosenthal	Whalen
Mink	Rostenkowski	White
Mitchell, N.Y.	Roush	Whitehurst
Moakley	Roybal	Whitten
Moffett	Runnels	Wiggins
Mollohan	Ruppe	Winn
Montgomery	Russo	Wirth
Moore	St Germain	Wolff
Moorhead, Calif.	Sarasin	Wright
	Sarbanes	Wydler
Moorhead, Pa.	Satterfield	Wylie
Morgan	Scheuer	Yates
Mosher	Schneebeli	Yatron
Moss	Schroeder	Young, Alaska
Murphy, Ill.	Schulze	Young, Tex.
Murphy, N.Y.	Sebelius	Zablocki
Murtha	Seiberling	Zeferetti
Myers, Ind.	Sharp	
Myers, Pa.	Shipley	

NAYS—10

Ashbrook	McDonald	Symms
Bauman	Mottl	Young, Fla.
Conlan	Rousselot	
Crane	Shuster	

ANSWERED "PRESENT"—1

Ashley

NOT VOTING—39

Anderson, Ill.	Hébert	Riegle
Andrews, N.C.	Hefner	Ryan
Bafalis	Henderson	Santini
Broyhill	Hinshaw	Sisk
Burke, Fla.	LaFalce	Solarz
Clay	Matsunaga	Spellman
Dickinson	Metcalfe	Steiger, Ariz.
Evins, Tenn.	Mitchell, Md.	Taylor, N.C.
Fary	Nichols	Waxman
Ford, Tenn.	O'Brien	Wilson, Bob
Fraser	Passman	Wilson, C. H.
Goldwater	Pepper	Wilson, Tex.
Goodling	Peyser	Young, Ga.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Anderson of Illinois.
Mr. Henderson with Mr. Broyhill.
Mr. Sisk with Mr. Ford of Tennessee.
Mr. Santini with Mr. Dickinson.
Mr. Charles H. Wilson of California with Mr. Andrews of North Carolina.
Mr. Passman with Mr. Bafalis.
Mr. Pepper with Mr. Fary.
Mr. Evins of Tennessee with Mr. Goldwater.
Mr. Nichols with Mr. Burke of Florida.
Mrs. Spellman with Mr. Hefner.
Mr. Riegle with Mr. O'Brien.
Mr. Matsunaga with Mr. Goodling.
Mr. Metcalfe with Mr. LaFalce.
Mr. Ryan with Mr. Fraser.
Mr. Mitchell of Maryland with Mr. Hinshaw.
Mr. Clay with Mr. Solarz.
Mr. Taylor of North Carolina with Mr. Steiger of Arizona.
Mr. Waxman with Mr. Young of Georgia.
Mr. Charles Wilson of Texas with Mr. Bob Wilson.

Mr. VANDER VEEN and Mr. FORD of Michigan changed their vote from "nay" to "yea."

So the conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CORMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 7706.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

EXTENSION AND AMENDMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT, AS AMENDED

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8841) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 1 year.

The SPEAKER. The question is on the motion offered by the gentleman from Washington.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8841 with Mr. HUNGATE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Before the Committee rose on Friday, October 3, 1975, it had agreed that the first section of the substitute committee amendment ending on page 3, line 11, would be considered as read and open to amendment at any point.

Are there any amendments to the first section?

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING: Page 3, line 3, insert the following new sentence immediately after the period in such line: "Notwithstanding any other provision of this subsection (b) and section 25(d), in the event that the Administrator determines that suspension of a pesticide registration is necesary to prevent an imminent hazard to human health, then upon such a finding the Administrator may waive the requirement of notice to and consultation with the Secretary of Agriculture pursuant to subsection (b) and

of submission to the Scientific Advisory Panel pursuant to section 25(d) and proceed in accordance with subsection (c)."

Mr. SEIBERLING. Mr. Chairman, this amendment to the Federal Insecticide, Fungicide, and Rodenticide Act amendments, would enable the Environmental Protection Agency to take immediate action to protect the public from imminent hazards to human health.

It amends section 1 of the bill, which would require that EPA give the Department of Agriculture in every instance 60 days' notice before issuing a notice of intent to cancel the registration of any pesticide.

The biggest problem with the 60-day USDA review requirement is that it also would, in effect, apply to suspension orders, which the EPA uses in "imminent hazard" situations to take immediate action. This is because, under the act, EPA cannot issue a suspension order unless it also issues a notice of intent to cancel.

My amendment would solve the problem by providing that—

In the event that the Administrator determines that suspension . . . is necessary to prevent an imminent hazard to human health . . . the Administrator may waive the requirement of notice to and consultation with the Secretary of Agriculture.

It would apply to both regular and emergency suspension orders.

The committee report attempts to minimize the problem by explaining that—

If the Administrator wished to order a suspension concomitant with the issuance of a notice of intent, he could short circuit the time requirement on notices of intent with the approval of the Secretary of Agriculture. . . . Under this provision, at most the order of suspension would be delayed by sixty days, and in cases that truly present an imminent hazard there should be no difficulty in securing the necessary concurrences for waiver of the time requirements.

However, I simply cannot believe that we can assume that there would be no difficulty in securing the necessary concurrences of the Secretary of Agriculture, in view of USDA's almost complete refusal to enforce the act from 1947 to 1970, and its consistent opposition to EPA regulatory actions since then.

The Government Operations Committee has documented that very dismal record in great detail. Based on its track record, the U.S. Department of Agriculture can be expected to use every opportunity to delay pesticide control actions, arguing about whether particular pesticides "truly" present imminent hazards. Any such disputes should be resolved in the full hearing and not be the basis for a delay where there is reason to believe that such a hazard is present.

Should the U.S. Department of Agriculture have the power to decide when EPA can take immediate action to protect the public health? Obviously not, in my view. It is EPA that has the most expertise in evaluating environmental health and safety hazards.

If this amendment is adopted, it would enable EPA to move immediately against imminent health hazards. It would be a vote against bureaucratic redtape and for public health and safety.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, as I understand the gentleman's amendment, in only one instance would it allow the Administrator to suspend a pesticide without first providing notice of 60 days to the Secretary of Agriculture and to the scientific panel. This would occur solely in the case where the Administrator had determined that the continued distribution of such pesticide in interstate commerce would constitute an imminent hazard to human health.

Mr. SEIBERLING. That is correct.

Mr. FOLEY. Is it the gentleman's further intention that his amendment be used only in the instance where the Administrator finds that there is an imminent hazard to human health and not in any other instance? In other words, the Administrator could not utilize this authority other than in connection with such an imminent health hazard.

Mr. SEIBERLING. Absolutely not. It is a very narrowly drawn amendment to take care of imminent hazards to health, such as the Administrator has had occasion to pass on in the past.

Mr. FOLEY. Speaking for myself, I would accept the amendment on those terms.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(On request of Mr. OTTINGER and by unanimous consent Mr. SEIBERLING was allowed to proceed for 3 additional minutes.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I would like to congratulate the gentleman for his amendment. I believe this is an amendment that was originally proposed as well by the gentleman from Michigan (Mr. DINGELL). It provides for a very serious situation where there is an imminent health hazard, that there may not be a delay caused by a requirement for referring this first to the Department of Agriculture for a period of 60 days.

I agree 100 percent with the doubts he has expressed about the Department of Agriculture. The past performance of the Department of Agriculture with respect to lack of enforcement against dangerous pesticides gives me no confidence that it would take prompt action even in this kind of situation.

I personally, and most environmental groups, oppose the 60-day delay altogether. Certainly, suspensions of pesticides posing an imminent danger to human health present a compelling problem. I hope that the Committee will adopt the gentleman's important amendment.

Mr. SEIBERLING. My amendment is identical to the amendment offered by the gentleman from Michigan (Mr. DINGELL), except that I have added the words, "to human health," to make it absolutely clear that this is the only situation we are talking about in this case.

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Virginia.

Mr. WAMPLER. Mr. Chairman, I have examined the amendment offered by the gentleman from Ohio and the gentleman from Michigan. As I interpret it, the key words are, "imminent hazards to human health."

Mr. SEIBERLING. Correct.

Mr. WAMPLER. I find myself in agreement with the chairman of the Committee on Agriculture in that I think it is a reasonable amendment. I would point out that the original Poage-Wampler amendment which was offered in the Committee on Agriculture addressed itself primarily to two areas: First, was the issuance of new regulations by EPA; and second, only to future cancellations, not to suspensions.

It seems to me that this amendment addresses itself in a very reasonable way. By way of legislative history, is it the intent of the amendment that the Administrator of EPA could only use this authority as was outlined in the colloquy between the gentleman from Ohio and the chairman of the committee?

Mr. SEIBERLING. That is my intention.

Mr. WAMPLER. I would say to the gentleman that, speaking for myself, the amendment is acceptable.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. KELLY

Mr. KELLY. Mr. Chairman, I offer two amendments, and I ask unanimous consent that these amendments be considered en bloc.

The Clerk read as follows:

Amendments offered by Mr. KELLY: Page 2, line 1 strike out lines 1 through 25 and page 3, line 1 strike out lines 1 through 11 and insert the following:

"That Section 6(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended (i) by inserting after the words 'the environment; the Administrator' the words 'with the concurrence of the Secretary of Agriculture' and (ii) by inserting after the words 'or classification issued' in subparagraph (2) the words 'by the Administrator with the concurrence of the Secretary of Agriculture' ".

Page 3, line 12 strike out lines 12 through 25, all of page 4 and lines 1 through 10 on page 5 and insert the following:

"SEC. 2. Section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by inserting after the words "the Administrator" the words "with the concurrence of the Secretary of Agriculture."

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. FOLEY. Mr. Chairman, reserving the right to object, I do so for the purpose of asking a question of the distinguished gentleman from Florida.

Am I correct that what the gentleman is asking for is consideration of these two amendments en bloc, and that in effect they constitute the same proposal that was acted on by the House last week when it was considered as the Symms amendment to the Brown amendment? Is that correct?

Mr. KELLY. If the gentleman will yield, the language is the same, but the amendments are directed to a different consideration.

Mr. FOLEY. They are directed to the language of the bill rather than to an amendment?

Mr. KELLY. Yes, that is correct.

Mr. FOLEY. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. KELLY. Mr. Chairman, this is a peculiar situation, in that these amendments that the Members are being asked to consider at this time represent the position of the committee in real life. The committee bill was what the committee decided politically was possible on this floor, not what was best. The amendment is what the committee decided was best.

Mr. FINDLEY. Mr. Chairman, I make the point of order a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to the provisions of clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The gentleman from Florida (Mr. KELLY) has the floor and has 4 minutes remaining.

Mr. KELLY. Mr. Chairman, this amendment that is before us at this time is the same language that was considered by the House last Friday. There were 91 Members of the Congress who were not present and voting on that occasion.

This matter has much far-reaching effect on the economy, the farmers, and the consumers. Certainly it is essential that the Members of this House all have an opportunity to vote on it.

This amendment was authored by the gentleman from Texas (Mr. POAGE) and by the gentleman from Virginia (Mr. WAMPLER). This is not an amendment that has not been considered.

This language was considered by the committee. It was favored by the majority of the committee, but it was thought that it could not happen politically, and this is a poor reason for voting in the wrong way, simply because one thinks that other people are not going to stand up and do what is in the best interests of the farmer and the consumer.

Mr. GINN. Mr. Chairman, will the gentleman yield?

Mr. KELLY. Yes, I yield to the gentleman from Georgia.

Mr. GINN. Mr. Chairman, I want to rise to personally thank the gentleman from Florida (Mr. KELLY) for offering this important amendment. I think it is vital to the future of agriculture and to the people in this country.

Mr. Chairman, I rise in strong support of the amendment and urge its adoption.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. KELLY. Yes, I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I would like to voice my support for this language.

It was considered in the Committee on Agriculture, had thorough discussion there, and does bear the name of our esteemed vice chairman, although he did not support it on final passage.

It also has broad support from the American Farm Bureau Federation. This organization views this as a safeguard of the interests of the farmer as the EPA takes up the consideration of various pesticide questions.

Mr. Chairman, I do hope that enough Members who are sympathetic toward this amendment will stay on the floor to assure a record vote.

Mr. KELLY. Mr. Chairman, I thank the gentleman.

What this amendment does, clearly, is to give a balance between the production of food and the environment.

There is much nonsense abroad in this land about that when the Department of Agriculture was handling the environment, the Department did a bad job.

However, let us examine that just a little. Everybody in America did a bad job when the Department of Agriculture was doing a bad job. That is why the environment question is so heavy in America now. That is the very reason for it, so that the Department of Agriculture today, on questions of environment, is a different department. It is in a different country with different people with different attitudes. Therefore, it is nonsense to go too far, again, on the basis that we have a good idea and that the good idea is to protect the environment.

Of course, that is important, but we are getting ready to go too far. Sixty-two percent of the farmers in this country are small farmers, and they cannot survive a bureaucratic consideration of what is necessary for them to survive.

We have four big automobile manufacturers. One of them is in trouble because of the difficulties that they have had with EPA. Small farmers cannot survive in the same way that automobile manufacturers can. General Motors is going to survive the catalytic converter. I do not know whether the rest of us will or not, because it is causing about as many problems as it is solving, but the truth is that production agriculturally in this country is important to our economy. The production that we have depends upon the use of insecticides, the same as fertilizer. Certainly the cost of agricultural production is going to be affected if we unadvisedly take pesticides away. Therefore, it is absolutely essential for the consumer and the farmer and the economy of this country that we have a balance with respect to these problems.

Certainly, if we cannot rely on the gentleman from Texas (Mr. POAGE) and the gentleman from Virginia (Mr. WAMPLER) in matters of agriculture, then we in this Congress and the people in this country are in difficulty.

Mr. FOLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, except for the parliamentary situation in which this amendment arises, it is identical to the Symms amendment to the Brown amendment in the nature of a substitute, which was defeated last week.

I know it is attractive to many who represent rural and agricultural constituencies to support an amendment which, in effect, gives the Secretary of Agriculture veto power over decisions of the EPA affecting pesticides. Notwithstanding the fact that there may be some one or two examples of such veto authority in the present Federal structure, what this would do, if adopted, is give both agencies or either agency the capacity to veto the actions of another agency without either agency having the capacity to decide and implement significant regulations.

Some might be persuaded that it might be good for agriculture if the whole regulation of pesticides was stopped in its tracks. Currently, however, one of the problems of agriculture is obtaining decisions as to whetner pesticides can be registered, and if not, what alternatives exist. One of the most serious problems has been the long delays that have preceded administrative action.

If we adopt the Kelly amendment, we are inviting further delay.

We have the example of Mirex, which is probably the only really effective pesticide to deal with fire ant infestation. The manufacturer of Mirex is about to cease production in the wake of agency disagreements over the use of this pesticide in extended eradication and control projects.

If we want to constrict the decision-making process to the point where manufacturers of needed pesticides and agricultural chemicals throw up their hands at the Government's inability to reach a decision because of long delays and longer arbitrations between the agencies—then we are inviting a serious blow to agriculture.

Speaking candidly to the members of our committee about a month ago, the Secretary of Agriculture acknowledged that, as a principle of good organization and administration, he could not support legislation giving one agency the right to veto actions of another.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Florida.

Mr. KELLY. Mr. Chairman, I would ask the gentleman from Washington, the chairman of the committee Mr. FOLEY, is the gentleman advised that the Farm Bureau and the American Cattlemen's Association favor the Poage-Wampler position?

Mr. FOLEY. I have been advised by the gentleman from Illinois (Mr.

FINDLEY) that the Farm Bureau favors it. Although I do not recall having received any direct communication from the American Cattlemen's Association on this amendment, I will accept the assertion of the gentleman from Florida that they do support its provisions.

Mr. KELLY. I thank the gentleman.

Mr. FOLEY. Mr. Chairman, I have a great deal of respect for those organizations, but I think they are capable of making mistakes.

Whether this is good or bad legislation is one issue; the second issue is whether or not, as the gentleman himself said, it can be adopted.

The committee's bill, in effect, requires an agricultural impact statement with respect to the EPA's evaluation of pesticides. The adoption of the Kelly amendment would wipe that out.

If this were to be adopted in the Committee of the Whole, which, according to the vote last week, is more than a remote possibility, it would be wiped out on a separate vote when we go back into the House. If that should happen, I do not know what our legislative situation would be, I do know, however, that we have an opportunity to follow the majority Committee decision by rejecting the terms of the Kelly amendment.

If we stay with the bill requiring EPA to give notice to the Secretary of Agriculture, and thus giving the Secretary a chance to file what amounts to agricultural impact statement regarding EPA activities, and allowing the scientific panel an opportunity to give independent testimony in the Federal Register, we will be taking steps to insure that all decisions of EPA are based on the best information available from both the agricultural and scientific community. If EPA rejects that advice, this bill can at least bring the issue into closer focus so that the public debate will be centered on the real issues. I hope the majority of the committee will do this.

I want to say a word concerning the role of the gentleman from Texas (Mr. POAGE) in this matter. Our distinguished vice chairman, Mr. POAGE, felt and feels this would be a good amendment if in his judgment, it were possible to write it into the law. But as all who know him will attest, however, his main interest has been to get something accomplished instead of wasting time in mere rhetoric.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. FOLEY was allowed to proceed for 2 additional minutes.

Mr. FOLEY. It is his judgment, as well as mine, that if we inject the Kelly or the Symms amendment into this bill, we will be wiping out what can be done, what can be sustained in decision with the other body. The provisions of the committee bill can go a long way toward placing some reasonable limits on EPA activities by involving them in the necessary consultation with agriculture and the scientific community. I hope that Mr. POAGE's judgment as to what is a practical and achievable result here will not be swept away by those who would like what they view a stronger, perhaps more far-reaching, amendment, a view which neither I nor the vice chairman shares. I want to state my own view: that I respectfully differ with both the Vice Chairman and the gentleman from Virginia (Mr. WAMPLER) regarding the actual merits of this amendment.

I am afraid that if this amendment is adopted, then we are going to see real harm done to American agriculture with decisions and actions constricted that there is no action and no policy. If this amendment is adopted, we will not have what agriculture needs more than anything: sure and reliable decisions which provide incentive for agricultural production of our food and fiber.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Florida.

Mr. KELLY. I thank the gentleman for yielding.

Would the gentleman recognize that although it might have appeared to the contrary at an earlier time, it now appears possible to get this better amendment into the law since there was only a gap of eight votes under the leadership of the gentleman from Florida. With leadership, it would have certainly carried by a substantial vote because it is the best view—and the Members of this Congress recognize that, without leadership.

Mr. FOLEY. I think the gentleman from Florida does not do himself sufficient credit. The issue will be decided when the House finally votes.

The CHAIRMAN. The time of the gentleman has expired.

Mr. VIGORITO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I should like to be associated with the remarks made by the chairman of this committee, the gentleman from Washington.

I am opposed to the amendment. I think if the amendment passes, it would destroy the bill. No doubt, it would destroy the bill, and we need this bill. We have worked many days in committee on the bill, and I urge my colleagues to vote down the Kelly amendment.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. VIGORITO. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. I thank the gentleman for yielding.

Mr. Chairman, I want to associate myself with the remarks of the gentleman from Pennsylvania. I agree that this amendment would be disastrous to the bill. I think that the record shows that EPA has a very balanced approach, sometimes annoying to the farmers and sometimes annoying to the environmentalists.

Mr. Chairman, it is maintained that the Environmental Protection Agency fails to take adequate and necessary account of agricultural and other factors. Indeed, the Secretary of Agriculture has maintained that a better balance along with environmental factors is needed.

As I look back at the record of the implementation of the FIFRA since it was thoroughly amended in 1972, I see a remarkable record of balanced decisionmaking in a most complex area.

It may be well to recount a part of that record. The cancellation of registration of aldrin and dieldrin because of a risk to human health and the environment prompted our agricultural friends to claim a lack of balance on the part of EPA. The approval by the Administrator this month of the use of sodium cyanide devices for predator control raised the ire of environmentalists. A year and a half ago, the decision by the Administrator to use DDT on an emergency basis to control the tussock moth in the forests of the Northwest garnered praise of foresters and criticism from environmentalists. Last year the denial by the Administrator to use DDT on cotton crops again raised a chorus of agricultural complaints.

Mr. Chairman, I believe that record is a record of decisions based on close and careful study and analysis. It is a record of balanced decisionmaking. It would appear that those who call for "balance" really mean they would welcome the old lackadaisical enforcement and maladministration of the Department of Agriculture. We rejected this in 1972. I would urge my colleagues to reject it again in 1975.

Mr. Chairman, I would ask leave to expand and extend my remarks.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. VIGORITO. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

I strongly support the position of the gentleman from Pennsylvania and the very able chairman of the Committee on Agriculture. I think that it is administrative folly to have two departments competing with each other in making important decisions. Furthermore, I think the deplorable record of the Department of Agriculture with respect to pesticides indicates that it would give no effective protection at all to the health of the people of the United States with respect to pesticides which are unsafe or harmful to health.

I think that the EPA has moved very strongly to try and rectify some of the objections of the farmers. It has set up a scientific panel to review all proposed pesticide action. I think that there is no need even for the provision which was put in the legislation for a 60-day review by the Department of Agriculture, but this amendment for a veto by the Department of Agriculture is unquestionably an unsound provision and I hope it will be defeated.

Mr. VIGORITO. I thank the gentleman.

Mr. Chairman, I urge my colleagues to vote down the Kelly amendment.

Mr. FINDLEY. Mr. Chairman, I rise in support of the amendment and I move to strike the requisite number of words.

I recall vividly when the gentleman from Texas (Mr. POAGE) made a very effective argument in committee explaining why he changed his position on the Poage-Wampler amendment. Frankly I could see the merit to his argument because it then appeared unlikely the House

would support the Poage-Wampler language. Yet I am sure he was surprised, as I was surprised, at the strength of the vote for the Poage-Wampler amendment when it was first considered by this committee, I believe early last week. The difference was about 5 or 6 votes, something like that, and it showed a surprising strength for this amendment.

I think one of the reasons there was such a strong vote for the amendment in this committee was that Members realized it was only a modest step. It really does not strip EPA of power. The Administrator of EPA still would retain the right to suspend any pesticide he felt was harmful. He would not have to go to the Secretary of Agriculture in any respect in order to suspend the use of any particular pesticide and there is no time limit for the suspension.

So actually the amendment offered by the gentleman from Florida (Mr. KELLY), which is better known as the Poage-Wampler amendment, is a modest step but nevertheless one which many farmers and farm organizations, including the American Farm Bureau Federation, recognize as a comforting provision which would require that before the EPA could cancel permanently the use of any pesticide the concurrence of the Secretary of Agriculture would have to be secured.

So therefore I think it is a reasonable but modest step in giving assurance to the farmers that they will have the ability to use pesticides so vital to the production of food in this country.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment of the gentleman from Florida (Mr. KELLY). I hope we keep in mind what is the central issue before us. That is, the need for the members of our country's farm community to be included in the final decisions to be made whether or not particular crop-saving chemicals are to be used. As it now stands, only the Environmental Protection Agency makes these decisions. By suggesting, as I in fact do, that the Department of Agriculture also have a say in the matter, we are only being realistic. The EPA may include some people with expertise in certain areas, but most of them do not know beans about farming.

I do not know the particular situation elsewhere, but farmers where I live absolutely need the effective chemicals with which the EPA has too often played bureaucratic games. If denied these farming tools farmers might as well feed their seeds to the birds which flock around the welfare lines that farmers will be joining. Better that than see their crops die, their families go hungry, their economy wither away and their crop-eating insects munch little thank yous to the EPA.

There is, of course, an alternative in the form of the reasonable amendments proposed by my colleagues, Messrs. POAGE and WAMPLER, now before us in the form of the Kelly amendment. It requires that the EPA give advance notice of its regulatory actions to the Department of Agriculture before those actions are taken. It requires that the door be opened, that joint EPA–USDA regulations be published for all the world to see. In short, it widens the circle of citizens and interests, all of whom must be consulted and offer final approval before any one agency or interest can make a regulatory decision which can have serious consequences for our economy and for the quality of our lives.

Every day, both in the pages of the RECORD and in the annals of the real world, we hear of agency horrors, bureaucratic foulups which have successfully made life difficult for countless citizens. In nearly every instance, ignorance was found to be more often than not, the root cause. Increasing the number of voices to be heard, and mandating that the EPA must listen to and sometimes heed those opinions so voiced will better guarantee a better life for all of us and a greater abundance of food.

Because the Poage and Wampler amendments to H.R. 8841 institute this increased level of consultation, they deserve our support.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Florida (Mr. KELLY).

Mr. KELLY. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The question is on the amendments offered by the gentleman from Florida (Mr. KELLY).

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KELLY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 164, noes 233, not voting 36, as follows:

[Roll No. 608]

AYES—164

Abdnor	Bevill	Burke, Fla.
Andrews, N.C.	Bowen	Burleson, Tex.
Andrews, N. Dak.	Breaux	Burlison, Mo.
Archer	Brinkley	Butler
Armstrong	Brooks	Byron
Ashbrook	Broomfield	Carter
Bauman	Brown, Mich.	Cederberg
Beard, Tenn.	Brown, Ohio	Clancy
Bell	Broyhill	Clausen, Don H.
Clawson, Del	Ichord	Railsback
Cleveland	Jarman	Randall
Cochran	Jenrette	Regula
Collins, Tex.	Johnson, Colo.	Risenhoover
Conable	Johnson, Pa.	Roberts
Conlan	Jones, Ala.	Robinson
Crane	Jones, N.C.	Rose
Daniel, Dan	Jones, Okla.	Runnels
Daniel, R. W.	Jones, Tenn.	Ruppe
Davis	Kazen	Sarasin
Derrick	Kelly	Satterfield
Derwinski	Kemp	Schneebeli
Devine	Ketchum	Schulze
Dickinson	Kindness	Sebelius
Downing, Va.	Krueger	Shipley
Duncan, Tenn.	Lagomarsino	Shriver
Edwards, Ala.	Landrum	Shuster
English	Latta	Sikes
Eshleman	Lent	Skubitz
Evans, Ind.	Litton	Smith, Nebr.
Findley	Lloyd, Tenn.	Snyder
Flowers	Long, La.	Spence
Flynt	Lott	Stanton, J. William
Forsythe	McCollister	Stephens
Fountain	McDonald	Stratton
Frey	McEwen	Stuckey
Ginn	Madigan	Symington
Goldwater	Mahon	Talcott
Gonzalez	Mann	Taylor, Mo.
Goodling	Martin	Thone
Grassley	Mathis	Thornton
Guyer	Michel	Traxler
Hagedorn	Milford	Waggonner
Haley	Miller, Ohio	Walsh
Hammer-schmidt	Mills	Wampler
Hansen	Mitchell, N.Y.	White
Harsha	Montgomery	Whitehurst
Hastings	Moore	Whitten
Hefner	Moorhead, Calif.	Winn
Hillis	Myers, Ind.	Wright
Holland	Neal	Wylie
Holt	Nichols	Young, Alaska
Horton	Pettis	Young, Fla.
Hubbard	Pressler	Young, Tex.
Hutchinson	Pritchard	
Hyde	Quillen	

NOES—233

Abzug	Dingell	Karth
Adams	Dodd	Kasten
Alexander	Downey, N.Y.	Kastenmeier
Ambro	Drinan	Keys
Anderson, Calif.	Duncan, Oreg.	Koch
Anderson, Ill.	du Pont	Krebs
Annunzio	Early	LaFalce
Ashley	Eckhardt	Leggett
Aspin	Edgar	Lehman
AuCoin	Edwards, Calif.	Levitas
Badillo	Eilberg	Lloyd, Calif.
Baldus	Emery	Long, Md.
Barrett	Erlenborn	Lujan
Baucus	Evans, Colo.	McClory
Beard, R.I.	Fascell	McCloskey
Bedell	Fenwick	McCormack
Bennett	Fish	McDade
Bergland	Fisher	McFall
Biaggi	Fithian	McHugh
Biester	Flood	McKay
Bingham	Florio	McKinney
Blanchard	Foley	Macdonald
Blouin	Ford, Mich.	Madden
Boggs	Frenzel	Maguire
Boland	Fuqua	Mazzoli
Bolling	Gaydos	Meeds
Bonker	Giaimo	Melcher
Brademas	Gibbons	Meyner
Breckinridge	Gilman	Mezvinsky
Brodhead	Gradison	Mikva
Brown, Calif.	Green	Miller, Calif.
Buchanan	Gude	Mineta
Burke, Calif.	Hall	Minish
Burke, Mass.	Hamilton	Mink
Burton, John	Hanley	Mitchell, Md.
Burton, Phillip	Hannaford	Moakley
Carr	Harkin	Moffett
Chisholm	Harrington	Mollohan
Clay	Harris	Moorhead, Pa.
Cohen	Hayes, Ind.	Morgan
Collins, Ill.	Hays, Ohio	Mosher
Conte	Hechler, W. Va.	Moss
Conyers	Heckler, Mass.	Motti
Corman	Heinz	Murphy, Ill.
Cornell	Helstoski	Murphy, N.Y.
Cotter	Hicks	Murtha
Coughlin	Hightower	Myers, Pa.
D'Amours	Holtzman	Natcher
Daniels, N.J.	Howard	Nedzi
Danielson	Howe	Nix
de la Garza	Hughes	Nolan
Delaney	Hungate	Nowak
Dellums	Jacobs	Oberstar
Dent	Jeffords	Obey
Diggs	Johnson, Calif.	O'Hara
	Jordan	O'Neill

Ottinger	Rooney	Sullivan
Patman, Tex.	Rosenthal	Thompson
Patten, N.J.	Rostenkowski	Treen
Patterson, Calif.	Roush	Tsongas
	Roybal	Ullman
Pattison, N.Y.	Russo	Van Deerlin
Pepper	St Germain	Vander Jagt
Perkins	Sarbanes	Vander Veen
Pickle	Scheuer	Vanik
Pike	Schroeder	Vigorito
Poage	Seiberling	Weaver
Preyer	Sharp	Whalen
Price	Simon	Wiggins
Quie	Slack	Wilson, Bob
Rangel	Smith, Iowa	Wirth
Rees	Spellman	Wolff
Reuss	Staggers	Wydler
Richmond	Stanton, James V.	Yates
Rinaldo		Yatron
Rodino	Steed	Young, Ga.
Roe	Steelman	Zablocki
Rogers	Stokes	Zeferetti
Roncalio	Studds	

NOT VOTING—36

Addabbo	Henderson	Sisk
Bafalis	Hinshaw	Solarz
Carney	Matsunaga	Stark
Casey	Metcalfe	Steiger, Ariz.
Chappell	O'Brien	Steiger, Wis.
Esch	Passman	Symms
Evins, Tenn.	Peyser	Taylor, N.C.
Fary	Rhodes	Teague
Ford, Tenn.	Riegle	Udall
Fraser	Rousselot	Waxman
Hawkins	Ryan	Wilson, C. H.
Hébert	Santini	Wilson, Tex.

The Clerk announced the following pairs:

Mr. Hébert for, with Mr. Addabbo against.

Mr. Henderson for, with Mr. Waxman against.

Mr. Taylor of North Carolina for, with Mr. Matsunaga against.

Mr. Santini for, with Mr. Metcalfe against.

Mr. Teague for, with Mr. Ryan against.

Mr. Casey for, with Mr. Solarz against.

Mr. Chappell for, with Mr. Sisk against.

Mr. Evins of Tennessee for, with Mr. Ford of Tennessee against.

Mr. Passman for, with Mr. Fary against.

Mr. Rousselot for, with Mr. Riegle against.

Mr. Symms for, with Mr. Carney against.

Mr. Steiger of Arizona for, with Mr. Peyser against.

Mr. O'Brien for, with Mr. Stark against.

Mr. Steiger of Wisconsin for, with Mr. Hawkins against.

Mr. Bafalis for, with Mr. Charles H. Wilson against.

Mr. Hinshaw for, with Mr. Fraser against.

So the amendments were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 2. (a) Section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) by inserting ", in accordance with the procedure described in paragraph (2)," immediately after "is authorized" in the first sentence; and

(3) by adding the following new paragraph at the end thereof:

"(2) PROCEDURE.—

"(A) PROPOSED REGULATIONS.—At least 60 days prior to signing any proposed regulation for publication in the Federal Register, the Administrator shall provide the Secretary of Agriculture with a copy of such regulation. If the Secretary comments in writing to the Administrator regarding any such regulation within 30 days after receiving it, the Administrator shall publish in the Federal Register (with the proposed regulation) the comments of the Secretary and the response of the Administrator with regard to the Secretary's comments. If the Secretary does not comment in writing to the Administrator regarding the regulation within 30 days after receiving it, the Administrator may sign such regulation for publication in the Federal Register any time after such 30-day period notwithstanding the foregoing 60-day time requirement.

"(B) FINAL REGULATIONS.—At least 30 days prior to signing any regulation in final form for publication in the Federal Register, the Administrator shall provide the Secretary of Agriculture with a copy of such regulation. If the Secretary comments in writing to the Administrator regarding any such final regulation within 15 days after receiving it, the Administrator shall publish in the Federal Register (with the final regulation) the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing to the Administrator regarding the regulation within 15 days after receiving it, the Administrator may sign such regulation for publication in the Federal Register at any time after such 15-day period notwithstanding the foregoing 30-day time requirement.

"(C) TIME REQUIREMENTS.—The time requirements imposed by subparagraphs (A) and (B) may be waived or modified to the extent agreed upon by the Administrator and the Secretary.".

(b) Section 21(a) of such Act is amended by inserting the following immediately before the period: "in accordance with the procedure described in section 25(a)".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 2 may be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 3. Section 27 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by adding at the end thereof the following:

"There is hereby authorized to be appropriated to carry out the provisions of this Act for the period beginning October 1, 1975, and ending September 30, 1976, the sum of $47,868,000.".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 3 may be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 4. Section 4 of the Federal Environmental Pesticide Control Act of 1972 is amended—

(i) In subsection (b) by striking the words "four years" and inserting in lieu thereof the words "five years";

(ii) In paragraph (c)(2) by striking the words "four years" and inserting in lieu thereof the words "five years";

(iii) In paragraph (c)(3) by striking the words "four years" and inserting in lieu thereof the words 'five years";

(iv) In paragraph (c)(4) by striking the words "four years" and inserting in lieu thereof the words "five years"; and

(v) In paragraph (c)(4)(B) by striking the words "three years" and inserting in lieu thereof the words "four years".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 4 may be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Page 6, line 10:

SEC. 5. Section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by deleting the period at the end of subsection (a)(1) and inserting the following: ": *Provided*, That the certification standard for a private applicator shall be deemed fulfilled by this signing a self-certification form. The Administrator shall assure that such form contains adequate information and affirmations to carry out the intent of this Act.".

AMENDMENT OFFERED BY MR. BERGLAND

Mr. BERGLAND. Mr. Chairman, I offer an amendment.

The Clerk read as folows:

Amendment offered by Mr. BERGLAND: On page 6, delete all after the first colon on line 13 through line 17 and insert in lieu thereof the following: ": *Provided, however*, That the certification standard for a private applicator shall be deemed fulfilled by his completing a certification form. The Administrator shall further assure that such form contains adequate information and affirmations to carry out the intent of this Act, and may include in the form an affirmation that the private applicator has completed a training program approved by the Administrator so long as the program does not require the private applicator to pass an examination to establish competency in the use of the pesticide. The Administrator may require any pesticide dealer participating in a certification program to be licensed under a State licensing program approved by him."

Mr. BERGLAND. Mr. Chairman, I offer this amendment on behalf of the gentleman from North Carolina (Mr. JONES) and myself. Section 5 of the committee bill has been described by some as the Jones amendment. My amendment to that section would simply provide the appropriate language to the bill conveying what the gentleman from North Carolina and I intended to convey when the matter was considered and adopted by the Committee on Agriculture.

The amendment would give to the Administrator the authority that may now be lacking allowing him to approve a plan that has operated successfully in the State of Minnesota for 7 years. Under that plan the State has a training program to instruct all users in the proper use of pesticides. That plan also provides for State licensing and instructing dealers in the proper use of pesticides. The plan further provides for instruction to users by the county extension agents, by the county wheat inspectors, and others.

When a prospective buyer intends to use one of these restricted pesticides he first will attend a training program. He will commonly approach his dealer who in turn will go over the label with the prospective buyer to satisfy himself that the buyer clearly understands the label, its limitations, and its proper usage.

The amendment would require, however, that the State's plan need not necessarily contain a clause that would require the applicator to pass a written

examination. In the experience we have had with the administration of the pesticide program in the State of Minnesota, we have found that when an applicator reads a complicated manual and takes a written examination, he frequently is not knowledgeable on the proper use of the two or three pesticides that commonly will be used on his farm, and that by having the county extension agent, by having the county wheat inspector, and by having the local dealer go over the proper use, we find the instructional program is very, very effective.

Some may wonder why we need this amendment, because the Administrator of EPA has announced his intention to approve the Minnesota plan. There is doubt within the office of general counsel of the agency as to whether or not the Administrator has the legal right to do this. This amendment would simply clarify that point of law. It does state that a training program must be put in place by the States, as approved by the Administrator, and it authorizes the Administrator to require dealer licensing so the program is run in a very responsible and, in my judgment, very effective fashion.

Mr. Chairman, I urge support for this amendment.

Mr. WAMPLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think this whole question of self-certification is probably the most important part of this bill as it pertains to farmers, ranchers, and others who would be applying pesticides and other agricultural chemicals. In reading the amendment offered by the gentleman from Minnesota (Mr. BERGLAND), I am somewhat disturbed by what I think is a reasonable interpretation of the amendment. It says in part, and I quote: "and may include in the form an affirmation that the private applicator has completed a training program approved by the Administrator so long as the program does not require the private applicator to pass an examination to establish competency in the use of the pesticide."

Mr. Chairman, it seems to me that a reasonable interpretation of that language would mean in effect that the Administrator of EPA may require a potential applicator to take a prescribed course of instruction or training and then subsequently be given an examination, and if he failed to pass the examination, the Administrator could not deny him the right to apply that pesticide.

It seems to me this is a rather ludicrous situation. I have great confidence in farmers in general and Virginia farmers in particular. I know that many of the farmers that I represent have been applying pesticides and agricultural chemicals for many years. If for no other than a selfish interest, they are concerned about the potential danger of any pesticide that may be applied as it may relate to any personal injury that may occur to them, to their employees, to their neighbors, and to the environment.

It just seems that this amendment is needless.

I supported in committee the amendment of the gentleman from North Carolina (Mr. JONES) as it pertains to self-certification, because I think it is highly desirable.

Under the amendment offered by the gentleman from Minnesota (Mr. BERGLAND) it gives the Administrator of EPA permissive authority.

I hold here a copy of a form, Mr. Chairman, that is prescribed by the Department of Housing and Urban Development. It is a disclosure and settlement statement. Perhaps many of you have had these forms referred to you by your constituents. This is a three-part form, with copies comprising five different colors.

If this amendment is adopted, it could require a potential private applicator to take a private study course to complete a form similar to this one. This is the type of complaint I am hearing almost daily from my constituents who are concerned about needless governmental bureaucracy, recordkeeping, and filing of forms.

It just seems to me that if a potential applicator of a pesticide, as the committee bill provides, is required to be self-certified at the source of purchase, and that at that point in time the potential dangers, if any, of that particular pesticide, are made known to him, that he understands how it is to be applied and that he signs a statement of self-certification, that would be the most practical way for us to address ourselves to this question of self-certification.

While I have great respect and admiration for my colleague from Minnesota, it seems to me that this amendment is needless and it would present a situation that perhaps would become rather ridiculous.

AMENDMENT OFFERED BY MR. FOLEY TO THE AMENDMENT OFFERED BY MR. BERGLAND

Mr. FOLEY. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. FOLEY to the amendment offered by Mr. BERGLAND: Page 1, line 9, strike words "to pass an examination" and insert in lieu thereof "to take any examination".

Mr. FOLEY. Mr. Chairman, the purpose of this amendment to the amendment is to make clear that the effect of its adoption would be to authorize the EPA to conduct informational programs for those who are to be certified for the use of pesticides, other than general use pesticides, but that the Administration could not require that any examination be taken as part of that certification process, unless a State were to decide that it wished to include a test in its proposed plan. Thus the Administrator could not require an unwilling State to administer an examination, but no State would be preempted from administering one of its own accord. We are embarking on a new procedure in the regulation of restricted pesticides.

Farmers and ranchers around the country have utilized pesticides in the past without restriction, except as to labeling.

In effect, the amendment to the amendment, if it were adopted, would mean that informational programs could be conducted as a requirement for self-certification with no examination, written or oral, to be utilized and no person could be required to undertake such examination as a condition of self-certification, unless a State were to mandate one.

I hope the Committee will adopt the amendment to the amendment and support and adopt the Bergland amendment as amended.

Mr. ANDREWS of North Dakota. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to point out to the House that this amendment as now amended by the chairman of the committee to clarify a misunderstanding that could otherwise have arisen falls directly in line with the program that we passed through our State legislature in North Dakota that was approved by the EPA as being a satisfactory program.

The North Dakota program states that the county agent in each county who has this information shall hold informational meetings, as they do regularly anyway for individuals who will be applying these herbicides and pesticides, and at the completion of these meetings they are then able to be self-certified. The licensing of course of the commercial applicator is handled by the State.

But the amendment offered by my colleague and friend from the Red River Valley, the gentleman from Minnesota (Mr. BERGLAND), falls totally in line with what the EPA has accepted in the case of North Dakota. It is a good amendment, one which the farmers can live with, which gives them assurance that they will be aware of the composition and reaction of the pesticides or herbicides they are using.

I urge my colleagues to support the amendment.

Mr. JONES of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to say to the members of the Committee if there is one thing I learned in the August recess it is that "the American public is fed up to the hilt with bureaucratic regulations." As pointed out by the gentleman from Virginia, this amendment was offered in the Agriculture Committee, hopefully patterned after the Minnesota plan, which has been fully explained, but I think it is proper at this point for some of my city friends to put in perspective what we are talking about when we refer to a private applicator.

The law, not in these exact words but in effect, in other parts of the bill defines "private applicator" as one who applies chemicals to his own farm or one under his immediate supervision. I have a feeling, which was confirmed in the conversation with the Administrator, that there was some plan as the States submitted their plans for the Administrator to require the farmers of this Nation to take a long lengthy written examination at regular intervals which, with no reflection on the farmers because I doubt seriously that I could pass such an examination, many of them would be unable to pass. Many of them would then be

forced to hire a professional applicator thereby increasing his cost.

It is my feeling and the feeling of 28 out of 30 members of the Agriculture Committee that it would be far more reasonable to let the private applicator sign at the time of the purchase of the product an agreement that he would indeed abide by the label and caution and instructions on said carton rather than take this lengthy examination, many parts of which would be forgotten within a day or two.

So I urge the Committee to adopt the Bergland amendment as amended by the chairman of the committee, which I think does exactly what the majority of Americans would like to see this Congress do.

Maybe in the broadest sense we are in effect saying to this segment of our population that we have trust and faith in their abiding by the rules of the Federal Government without involving them in a multiplicity of redtape and confusion.

I hope this Committee will adopt the amendment as amended.

Mr. KELLY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am really happy for this opportunity this morning, because this is the first clear shot I have had to do what I came to Congress to do, and that is to try to oppose this Congress and this Government helping so much.

Now, the brightest spot in our entire economy is agriculture. It is a success; it is an economic success in world competition. All of the do-gooders in this House have been helping the Penn Central Railroad, and it is bankrupt. They have been helping the shipbuilding industry in America, and it is not competitive in the world market. Now, they are getting ready to help the farmers, and this is the way they are going to do it.

The first effort was to tell them that they had to take an examination and take a course, but they did not have to pass it because we did not want them to be angry. Now, this amendment we have before us says that they do not have to take any examination, but they still may be required to take the course. What is happening here is that the people in this House are telling the farmers, who are a success—and this House has some question about its own success—getting ready to tell them that they have got to take a course given by some bureaucrat as to how to farm. A course on the application of pesticides and insecticides on the American farm, which is an integral part of any kind of farming and agricultural operation in this country today.

There just is no justification here for telling the farmers that we are going to mount an expensive program to give them instructions when the evidence is that they just do not need our help. So, I am urging the Members, please, let us do not help these people so much because if we do, they just might not survive the medicine.

Mr. WAMPLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it seems to me that the amendment to the amendment as offered by the distinguished chairman of the Committee on Agriculture is as undesirable as is the amendment itself. As I understand the amendment to the amendment, it would simply substitute the language, "to take any examination," for the language, "to pass an examination."

What bothers me, Mr. Chairman, about the whole thrust of the Bergland amendment and the amendment to the amendment as offered by the gentleman from Washington (Mr. FOLEY) is that it adds another needless layer of bureaucracy to American agriculture. If the amendment to the amendment were adopted, as I understand it, it could put a premium on incompetency.

As I understand it, a potential applicator could be required to attend a prescribed course of instruction, and he perhaps could sleep through the entire course, and as long as he could certify that he had attended the requisite number of sessions, he could be certified as an applicator. If I may, I would like to point to page 8 of the committee report in that section addressing itself to self-certification, and point out that section 5 of the committee bill, as amended, does give the Administrator of EPA the authority to assure that any form that is prescribed contains adequate information and affirmation to carry out the intent of the act.

During the hearings on this bill, the committee heard much testimony which was highly critical of the manner in which EPA had begun to administer the provisions regarding certification of private applicators and the burdensome and often time consuming and unnecessary process that was being placed on farmers in order to become certified.

As a practical matter, in many States that have already set up certification programs, potential applicators are required to take a course of study that would apply to many pesticides and agricultural chemicals that they would never use, so it would seem to me that what the committee bill provides is a self-certification at the point of purchase of the pesticide, and is the most practical way.

As I tried to point out earlier, farmers do have a self-interest in the safe and proper use of pesticides. I think it would be fair to say that the farmers and ranchers of this country were, in fact, the original environmentalists, because they live close to the land.

They know by adhering to proper environmental policies and practices that it will preserve that which is dearest to them, their land, their ranch, or their orchard.

Mr. Chairman, I hope that we would reject the amendment to the amendment and the amendment and go back to the language in the original committee bill. I think this will best serve the purpose of all of us who are interested in seeing that applicators of chemical pesticides do it in a way that will reduce the possibility of damage not only to themselves but to the environment, and it seems to me that by rejecting the amendment to the amendment and the amendment we get back to what the committee intended, that we can have self-certification in such a way that it will give us a proper balance between these conflicting points of view.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. FOLEY) to the amendment offered by the gentleman from Minnesota (Mr. BERGLAND).

The amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. BERGLAND), as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. KELLY. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment as amended was agreed to.

The CHAIRMAN. Are there further amendments to section 5?

AMENDMENT OFFERED BY MR. MCHUGH

Mr. McHUGH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McHUGH: Page 6, line 10, strike lines 10 through 17.

Mr. McHUGH. Mr. Chairman, my amendment is to strike section 5 from the bill, because section 5 still contains a provision which would allow for self-certification and, in my view, self-certification could do irreparable harm to what Congress accomplished in 1972.

It is important to understand what this Congress did in 1972. In that year, it adopted a series of amendments to the pesticide law. Those amendments, among other things, directed that EPA classify pesticides available for use into two categories. One category was to include pesticides for general use, and the second category was to embrace pesticides for restricted use.

General use pesticides are available to anyone without limitation simply by purchasing them in the open market. Restricted use pesticides, however, are those which are determined to be highly toxic and, therefore, potentially dangerous to human beings or to the environment, or to both.

In 1972 the Congress recognized that while pesticides have a tremendous value to agricultural production in this country, certain pesticides are dangerous. Therefore, Congress also directed EPA to develop standards to certify individuals as competent to use pesticides determined to be dangerous.

Mr. Chairman, I submit that Congress took a very sensible step in 1972. Unfortunately, section 5 of this bill, which would introduce self-certification for the first time, undermines that decision and runs counter to the policy which was clearly set earlier and which remains in effect today.

Section 5 permits an individual to certify himself as competent to use a dangerous pesticide by simply signing a form which says that he is competent. That such a procedure is self-serving and completely devoid of objectivity is obvious.

There is absolutely no requirement in this bill that there be an independent determination of competency, however

informal or formal. There is no standard assuring that the person desiring to use the restricted pesticide understands the hazards involved.

I know that the argument in favor of section 5 and in support of self-certification is that many of our farmers have been using pesticides for years without incident. I am sure that is true. I have farmers in my own district, and I know the vast majority of those farmers are very responsible people. In most cases there is little chance that they would apply their pesticides in a manner that would be dangerous to themselves or to the environment.

However, farmers are no different than any other class of people. There are some who are careless, there are some who are uninformed, and there are some who have not yet concerned themselves with the dangers involved with certain restricted pesticides. That is why in 1972 Congress passed the amendments designed to provide some education and an independent judgment of competency, amendments which were designed to safeguard the environment and the health of our people.

Accordingly, Mr. Chairman, it is imperative that we maintain the policy previously adopted by Congress. To provide some reasonable measure of education does not mean putting individuals through an extensive course. Under current law the States are authorized to develop their own plans and options for training, and these programs need not be burdensome.

Many of the States have proceeded in good faith based upon the amendments adopted by Congress in 1972. They have spent money in developing their programs for training and certification. Are we now to undercut their efforts and compromise their credibility with farmers by saying that we really did not expect a meaningful program after all?

I submit, Mr. Chairman, that it is important that we not change direction now and that we do maintain a sense of responsibility in this area.

Undoubtedly there is a measure of inconvenience involved for farmers who are asked to learn something about restricted pesticides. Arrayed against that certain measure of inconvenience, however, are the dangers to the environment and human health imposed by restricted pesticides that are improperly used. Surely we must reaffirm our commitment to protecting health and environment when faced with this choice.

Mr. Chairman, I am offering this amendment to strike section 5 in the hope that we can retain the law as it is. This is a law which is working: It is a law which the States have relied upon and are following. I submit that this is the responsible direction to take in this area, and I urge my colleagues to support the amendment.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. McHUGH. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, do I understand that the gentleman is merely saying that to simply permit a person to certify himself makes a mockery of the whole question of certification?

Mr. McHUGH. That is what I am saying.

Mr. ECKHARDT. So the gentleman is simply removing the authority to certify one's self, and it seems to me that is based on irrefutably correct logic.

The CHAIRMAN. The time of the gentleman from New York (Mr. McHUGH) has expired.

(On request of Mr. OTTINGER and by unanimous consent, Mr. McHUGH was allowed to proceed for 3 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield further?

Mr. McHUGH. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, it would seem to me that this would be comparable to letting a would-be doctor give himself his own certification to practice medicine.

Mr. McHUGH. That is correct. I agree with the gentleman.

Mr. ECKHARDT. Or it is comparable to allowing a person who desires to practice law the opportunity to certify himself. That, it seems to me, would make a virtual mockery of the certification procedure.

Mr. Chairman, I certainly agree with the gentleman's amendment, and I shall support it.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. McHUGH. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I rise in very strong support of the gentleman's amendment. I think that the self-certification principle just does not make any sense.

What we are talking about here is restricted pesticides. These are pesticides which, if improperly handled, are dangerous to the farmer as well as dangerous to the public. If they are allowed to be improperly handled so that toxic substances do get on food and people do suffer from the poisons involved, they can be extremely dangerous.

I think the minimum requirement should be that the farmer and the home applicator—because it is not just farmers we are talking about—be required to learn something with respect to handling these really toxic substances and have some training in that area so they can handle them properly for the protection of themselves and the protection of the public.

While I do think that the amendment offered by the gentleman from Minnesota (Mr. BERGLAND) which has been adopted makes the situation somewhat better than it would have been—and I supported the gentleman in that respect—I do think it would be much better to continue the practice as it presently exists and allow the States to continue their certification programs and thereby offer the public and the applicator the kind of protection that is provided by this amendment.

Mr. Chairman, I think the gentleman has offered an excellent amendment, and I hope it will be supported in Committee.

Mr. McHUGH. Mr. Chairman, I thank the gentleman from New York.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. McHUGH. Yes, I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, I want to commend the gentleman from New York (Mr. McHUGH) for his leadership.

This amendment is a most important contribution to this piece of legislation.

Certainly, self-certification, on its face, is very inadequate in the field of dealing with dangerous pesticides, fungicides, and materials of this type.

Therefore, Mr. Chairman, I certainly hope and urge that the House adopt this amendment.

Mr. EVANS of Colorado. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

I understand the reasons that the gentleman from New York (Mr. McHUGH) is offering it, and I understand how those who do not have an army of agricultural constituents might support it.

After all, it sounds so logical: If we are going to restrict certain chemicals, either pesticides or fungicides, why not provide a careful procedure by which we test those who are going to apply those substances to the soil? However, let us take a look in the other direction.

EPA was going forward until our Colorado Commissioner of Agriculture began talking with them. We found out that some lawyer who was just recently out of law school was the man who was drawing the regulations which would affect farmers all over this country in the application of restricted chemicals. He was headed toward the requiring of the taking of a course and the giving of examinations.

We in Colorado have some 20,000 farmers, and they saw this coming. That is, these 20,000 farmers scattered over 100,000 square miles saw the prospect of a monumental headache.

They feared they were going to get a notice from our Department of Agriculture in Colorado saying: "You lucky people, you are going to be able to take a course in the use of these pesticides and herbicides here in Denver. On the apointed day, you can come to Denver, driving 300 or 400 miles in the process and taking hours of driving and attend a couple of days of classes. You will have to pay to defray the cost of this. After taking the course and if you pass the test, you will have to pay a fee to get a license to apply these chemicals for a limited period of time."

Multiply that picture by 50 States and the some hundreds of thousands of farmers throughout the United States, and all will see what kind of picture we could have. It is mammoth.

Now I would like to refer the members of the committee to the comments just made by the gentleman from New York (Mr. McHUGH) in which he allowed as how he has farmers in his district. I am glad he does. Then he complimented those farmers. He said, if I quote him correctly, that the vast majority of these farmers are responsible people capable of caring for their lands and the products that they grow, good products that will then be offered to the people of this country to be consumed as food.

Mr. Chairman, he tipped his hat with congratulations to the vast majority of the farmers in his district.

Then I think he said something about like this: "Obviously, farmers are people, and you have some who may be careless." I think he used the word "occasionally." But, then what he suggests we do to take care of this "occasionally careless farmer" is a removal from this bill of an ability on the part of all farmers to come in and certify, "I know how to handle this material. I will handle it in accordance with the labels, which I have read and understand."

Therefore, Mr. Chairman, if we adopt the gentleman's amendment we will be penalizing the vast majority of the American farmers because of the occasionally careless farmer.

We have had farmers successfully and safely using chemicals in this country for I do not know how many years.

I have listened to the testimony in committees, and I have heard conversations on the floor of this House about the dangerous things the farmers use many times, and I have yet to hear of an instance in which a farmer has been careless or negligent, and as a consequence of that, there has been human injury.

The effect of some chemicals is debatable in terms of the effect on the environment. It is a debatable question, but I submit that self-certification on the part of farmers is proper.

If a farmer produces a product that is going to be dangerous to people, he is not going to be able to sell it.

It is in his own interests to make certain that what he produces is safely consumable by the American public.

For this reason I object to the amendment offered by the gentleman from New York (Mr. McHUGH) and submit that if it passes it will penalize the vast, overwhelming majority of farmers in this Nation in order to get at the occasional negligent ones.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. Mr. Chairman, I want to associate myself with the remarks of my colleague, the gentleman from Colorado (Mr. EVANS) which as usual were right to the point.

But, Mr. Chairman, let me ask the gentleman from Colorado if it is not true that if this type of an examination went on, and the farmer himself could not travel that many miles and put in that much time to pass the examination that then most of the application of his pesticides would be done by the sharpy who passed the examination but who could be totally careless in the application of these pesticides because he did not know about the shelter belt that the farmer had been protecting all of his life, or he did not know about the wind patterns there and he did not know about a host of other things that only that farmer knows? And could not this result in a much more careless application of the herbicide?

Mr. EVANS of Colorado. I agree with the gentleman from North Dakota and I would add that this would be a boon to those who are principally in the business of selling their services to farmers for the application of these herbicides or pesticides.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. EVANS of Colorado was allowed to proceed for 1 additional minute.)

Mr. EVANS of Colorado. Mr. Chairman, I agree with the gentleman from North Dakota that it would add another problem and that is that if a farmer did not pass the test, or could not go to take the test at the time it was given, that this would be playing into the hands of those who were in the business of selling their services to do this commercially. Again this takes away the self-sufficiency from the farmer and places it in the hands of somebody else.

Mr. ANDREWS of North Dakota. The gentleman is correct.

I believe it also should be pointed out that this is true of herbicides and their application, not only that but if one were to double the application, which would be careless, this would kill the crop.

Mr. EVANS of Colorado. That is true.

Mr. ANDREWS of North Dakota. Or if one were to put on too little then it would not kill the weeds.

Mr. EVANS of Colorado. That is correct.

Mr. ANDREWS of North Dakota. In other words, they have to be put on exactly, in the exact ratio needed to secure the benefits, and that this result is not going to come by a sloppy operator doing the application, getting careless with the herbicides in putting them on?

Mr. EVANS of Colorado. That is right.

Mr. ANDREWS of North Dakota. And this is one of the best reasons why it would be better to have self-certification applications because then these operators will be operating on their own land and around their own livestock and barns and they have got a whale of a lot more at stake than somebody who is a windfall operator who would come in from the outside if this amendment were to be adopted.

Mr. EVANS of Colorado. That is exactly true.

Mr. FITHIAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like first of all to associate myself with the colloquy which just took place in this Chamber between the gentleman from Colorado (Mr. EVANS) and the gentleman from North Dakota (Mr. ANDREWS). I think those gentlemen very accurately reflected the concerns of the farmers in this country today. I also appreciate the efforts of the gentleman from New York (Mr. McHUGH) in offering this amendment.

But we had a discussion on this at great length in the committee so this is nothing new to those of us who serve on this committee.

I wonder, however, if we are not overlooking something? I wonder if we are not overlooking what would happen in the real world. Sometimes when we come down to Washington we get so insulated and so isolated from the real America that we kind of forget and we forget the items that were just pointed out by the gentleman from North Dakota and we forget the fact that all of those things, the application, the cost, the waste, and the destruction of crops would take place if misuse took place.

But we are also forgetting, are we not, that if the bill passes as it now stands that this is in fact how the procedure would take place: The farmer would go into the place of business that is selling the pesticide and would purchase the pesticide. But before the pesticide could leave that place of business the licensed salesman would, by law, have to explain specifically the requirements pertaining to that particular chemical, or that particular pesticide.

They would review the requirements of the label. I would submit the farmer would get more specific information about the particular pesticide that he is going to use than he could possibly get in a general course down in the State capital on all restricted pesticides, so that the information that he would need to use that particular pesticide would be much more relevant, and he would be much better informed.

Second, when he has completed the instruction from the salesman, he signs that he is purchasing and that he understands the ingredients. Let us suppose that what the gentleman from New York fears is correct. Let us suppose an occasionally sloppy farmer goes out and makes use of this in a way that would be harmful. If he does, he violates the regulation that is on the label. He would be as much of a lawbreaker as someone going down the State highway at 70 miles an hour.

To be sure, no law can be passed that would insure that everybody drive 55 miles an hour, and no law can be passed that, by taking an examination or a course somewhere else, every single person in this country will know and will comply with the law to the very letter of the law. We cannot perfect society in that fashion.

All I am saying is that he would clearly understand under the procedures in the bill that he is breaking the law.

Mr. McHUGH. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I will be happy to yield to my friend, the gentleman from New York.

Mr. McHUGH. I thank the gentleman for yielding.

There are two points I should like to make, if I may. A person who drives 70 miles down the highway is not permitted to drive until he takes an examination to satisfy some degree of competence, and that is all we are asking in terms of this particular law which is now in effect.

Second, I think it is fairly clear from the language which the gentleman referred to, the language which the gentleman from Minnesota (Mr. BERGLAND) inserted into the existing bill, that the Administrator has the option to require licensing of dealers. That is, as I understand it, a permissive clause; it does not assure that if we had a different Administrator or the same Administrator with a different point of view, that we would have the rigorous type of licensing and safeguards that we have in the Minnesota plan. I think the Minnesota plan is acceptable and, parenthetically, is acceptable to the EPA now without a change of the law and, therefore, it seems to me a change such as we are thinking

about in terms of self-certification is not necessary at all.

Mr. FITHIAN. So what the gentleman is saying is that he questions whether or not the Administrator of the EPA would be too permissive? Is that what I understand the gentleman from New York to say?

Mr. McHUGH. Yes. That is quite possible.

Mr. FITHIAN. I thought that is what the gentleman said. I have little reservation about the actuality of the EPA not being sufficiently aggressive, but if it were the case, then any program of instruction in any course, or any course of study that one could give, could have the same limitations. All I am saying is that it relies upon the good judgment of the Administrator of the Environmental Protection Agency. I am willing to stand with that.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GUDE. Mr. Chairman, I move to strike the requisite number of words, and I support the amendment.

Mr. Chairman, the gentleman from New York has made an analogy between requiring proof of ability to apply agricultural materials with obtaining an operator's permit to drive an automobile. I think his point is well taken. I do not believe anyone in this Chamber would really want to advance the proposition that we eliminate tests of competence to operate a vehicle on the highways, even though the vast majority of drivers are law-abiding citizens and obey the traffic laws. It would be great if we could return to frontier days when life and our energy and technology were much simpler, but since World War II we have had the evolution of some tremendously poisonous insecticides and fungicides, two or three drops of some of these materials can be fatal to a person if only gotten on his skin. It is simply a question that today's agribusiness requires the knowledge of sophisticated technology and procedures which are so complex that the safety of the operators and public can not be left to chance. This amendment will not be a burden on farmers. It is very necessary and I hope the House will adopt it.

Mr. FOLEY. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I have great respect for the gentleman from New York (Mr. McHUGH), who is a very hard working and extremely able member of our committee, but the committee position in this matter was to move toward some program where, with perhaps some informational instruction, private applicators would be able to be certified by a self-certification process.

In the adoption of the Bergland amendment that decision of the committee has been further defined. I hope the Committee of the Whole will support this committee position.

We are going for the first time into a program of licensing pesticides and classifying them by restrictive and general use categories. Up to this time we had only the labeling.

The amendment which would strike this section would leave the Administrator with very wide discretion as to what requirements he could impose, including examinations or tests or other prerequisites which could well overreach the dimensions of the problem. While I seldom have found any reason to disagree with the statements of fact as made by the distinguished gentleman from Maryland (Mr. GUDE), I do not think it is likely there will be any restrictive use pesticides or any other pesticides permitted for any kind of use two or three drops of which would be lethal. There are some germ warfare agents that are that lethal and toxic, but I doubt the EPA would authorize any such toxic materials to be sold, even for restricted use.

Mr. GUDE. Mr. Chairman, if the gentleman will yield, the types of chemicals I am referring to are in the phosphorus group—for example, parathion—which have been used in agriculture. The great merit of these materials is that their lethal qualities are very quickly dissipated. They do not have the residual toxicities such as DDT and some of the chlorinated hydrocarbons. They are excellent materials for agricultural work but they do have great toxicity and great care needs to be taken in their use.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. McHUGH).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. McHUGH. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 6. Section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by adding a new paragraph (3) at the end thereof as follows:

"(3) CONGRESSIONAL COMMITTEES.—At such time as the Administrator is required under paragraph (2) of this subsection to provide the Secretary of Agriculture with a copy of proposed regulations and a copy of the final form of regulations, he shall also furnish a copy of such regulations to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate."

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 6 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 7. Section 17 is amended by redesignating subsections (d) and (e) as subsections (e) and (f) and adding a new subsection (d), as follows:

"(d) REFUSAL OF ENTRY TO CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS.—The Secretary of the Treasury shall notify the Administrator of the arrival of any lot of an agricultural commodity or product produced in a country or area which permits the use on such commodity or product of pesticides which the Administrator has refused to register or the registration of which has been suspended or canceled because of possible health hazards resulting from possible residues of such pesticide on the commodity or product, and the Secretary shall refuse entry to such commodity or product until and unless the lot is examined by the Administrator, or the Department of Agriculture in the case of meat and poultry products and the Food and Drug Administration in the case of other food products, acting for the Administrator, and it has been determined that no residues in excess of established United States tolerances are present of any such pesticide; provided, in the absence of an established tolerance an action level or enforcement guideline shall be enforced."

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that section 7 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

AMENDMENT OFFERED BY MR. VIGORITO

Mr. VIGORITO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VIGORITO: Page 7, strike lines 4 through 25.

Mr. VIGORITO. Mr. Chairman, striking lines 4 through 25 is necessary because section 7 requires to be inspected on arrival in the United States each lot of an agricultural commodity or product produced in a country or area which permits the use on such commodity or product of a pesticide which the Administrator has banned because of possible health hazard resulting from possible residue. Entry would be refused unless it is determined no residue in excess of U.S. tolerances is present. This is an import control measure under the guise of a health measure which will have serious effects on international trade.

Under existing law various Government agencies having responsibility in this area already sample agricultural commodities on entry and prohibit many commodities containing excessive residue. Section 7 would require inspection of each lot arriving in the United States.

I might add, that might mean each barrel, each package, each drum, each hold in a cargo ship and so forth.

We do not require testing of residue of every lot of domestically produced products sold in the United States. Thus, the measure is discriminatory against exports.

The Department of State and the Department of Agriculture oppose these changes as having a serious adverse impact on our international trade. See the committee report on page 40 and the letter attached from the Department of State.

It would establish a new nontariff trade barrier and likely stimulate nations abroad, endangering U.S. agricultural exports, which are approaching $22 billion annually and contributing so much to our balance of trade.

I might add that our imports of agricultural products are about $10 billion, so we have a surplus in our net agricultural exports of at least $12 billion.

It would be highly inflationary as a result of inspection requirements placed

on the USDA and FDA, costing those agencies about $140 million annually. Just the administration of FIFRA costs $46 million. The USDA estimates it will cost the Department $4.4 million per year. The Food and Drug Administration has estimated that the cost to that Agency would be about $136 million annually. The latter figure represents the cost of increasing FDA personnel by approximately 6,200 persons as a result of its estimate of the need to inspect approximately 500,000 lots of agricultural commodities and products entering the United States annually.

I am almost sure in my own mind, my colleagues, if the bill is passed as now written in section 7, the President will veto the bill.

We cannot afford delay on this bill, because we have until the 15th of November. The current law expires on the 15th of November and we do not have any legislative days left.

Mr. MELCHER. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, this section of the bill is not just something that was dreamed up in a few hours or a few weeks. This section of the bill has been desired by members of the House Agricultural Committee for 5 years. It has been desired by the consumers of this country for even longer, because while we have done a good job in determining what chemicals we use in food products are harmful to people and have set up the agency that dictates what chemicals can be used and have imposed those standards on our domestic producers, we have done nothing about determining what is in the food that we import.

Now, we find that chemicals that we know are harmful are being used in other countries and that presumably those chemicals that are harmful in food products and are a public health hazard in this country are being imported into this country in foreign food.

This section of the bill simply says that the Treasury Department, because they run customs, will identify each lot of imported food that comes from a country that uses chemicals we have banned in this country because they have been found to be harmful to health.

If he finds such a lot—and there are many—then he will identify those lots so that the Department of Agriculture in the case of meats and the Food and Drug Administration in the case of vegetables and fruits and dairy products, can take a residue sample of that lot. They will just take one sample out of the entire lot. In the case of meat a lot might be 500,000 pounds of meat. In the case of dairy products a lot might be several tons, but we only say one residue sample examined to see whether there is a harmful chemical present. If there is, then we send the lot back, because it is a health hazard.

What are the circumstances now? The Agriculture Department on a random basis does take some samples. The Food and Drug Administration on a random basis does take some samples, but the point is that in preventing health hazards for consumers, random samples are not good enough. We want the minimum to be a residue sampling of each lot, and a lot is identified by customs for purposes of inspection for customs, and is a certain amount. It is workable, and should be retained in the bill.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I want to compliment the gentleman on his clear exposition of the position, a position on which I join with him. It seems to me to be entirely consistent, and one which goes to our concern with the process of making our food more healthful and more carefully inspected, a concern which should be supported.

I congratulate the gentleman, and I urge support for his position.

Mr. MELCHER. I thank the gentleman.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Louisiana.

Mr. MOORE. Mr. Chairman, I also would like to associate myself with the gentleman's remarks. I think the amendment adopted in the committee, which this amendment seeks to take out, is well taken. I supported it then because it is in the interests of the consumers and farmers alike. I hope this amendment will be defeated, and again commend the gentleman for his work on this particular section of the bill.

Mr. MELCHER. I thank the gentleman.

Mr. JONES of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Tennessee.

Mr. JONES of Tennessee. Mr. Chairman, I commend the gentleman for the interest he has taken in this section of the bill, and I urge support for this section of the bill.

Mr. MELCHER. I thank the gentleman.

Mr. BALDUS. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Wisconsin.

Mr. BALDUS. Mr. Chairman, I want to compliment the gentleman on his effort to put this section into the bill. I call attention to the committee report at page 38. It points out that dairy products, which are immediately used by many people across the Nation, will also be covered by this section of the act. I think it is a very necessary part of the law.

Mr. MELCHER. I thank the gentleman.

I want to advise the Committee that I shall, in recognition of the objections raised by the gentleman from Pennsylvania (Mr. VIGORITO) offer a perfecting amendment to this section. After discussing with the Food and Drug Administration today their determination that there are 500,000 lots, and as has been discussed by the gentleman from Pennsylvania, that is a vast number, and the estimates of the Food and Drug Administration would be that it might cost as high as $136 million, I would point out that a perfecting amendment is probably needed to identify those areas the Food and Drug Administration find the most necessity for taking residue samples.

They are: Fresh and frozen fruits, which involve 48,200 lots per year; fresh and frozen vegetables, which involve 104,300 lots per year; dairy products, which involve 18,000 lots per year.

In discussing this with the Food and Drug Administration, they pointed out to me that they would feel that they must continue a rather heavy residue sampling procedure for these three categories.

PERFECTING AMENDMENT OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

Perfecting amendment offered by Mr. MELCHER: On line 20, after "other" strike "food products" and insert "fresh and frozen fruits, fresh and frozen vegetables, and dairy products".

Mr. MELCHER. Mr. Chairman, this is the perfecting amendment that I mentioned. In discussing this with the person in the Food and Drug Administration who is in charge of their inspection of foreign imports of food products which they have control over, he mentioned one example of the efforts of Mexico, our neighbor to the South, to make sure that the vegetables and fruits exported to us do not contain DDT and other chemicals that have been determined to be harmful to health.

He mentioned that, even despite our screening, they found on residue sampling that amendyne, a very harmful chemical was found on strawberries and that they felt that they needed to continue a broad program of residue sampling.

By cutting this down to 150,000 to 170,000 residue samples that Food and Drug would be looking at per year, I think we are covering an important part of their responsibility, but we do recognize the problem and take care of the problem that was raised by the gentleman from Pennsylvania (Mr. VIGORITO), by cutting to one-third the estimated cost. So, instead of $136 million estimated, it would be one-third of that, or, roughly, some $45 million.

Mr. Chairman, I think that is a small price to pay to make sure that the health of the American consumers is protected on the imported food products that we bring into this country.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentlewoman from Hawaii.

Mrs. MINK. I thank the gentleman for yielding.

Could I inquire, with the perfecting amendment which was just offered by the gentleman from Montana, is it the intent of the gentleman to exclude altogether from the coverage of the section canned goods that may be imported?

Mr. MELCHER. Yes. Under these terms it would exclude canned goods.

Mrs. MINK. If the gentleman will yield further, there would be no protection then?

Mr. MELCHER. I must say there will be some protection, but it will not be as complete a protection. Food and Drug

will still take their random samples of canned goods, but it will not be as complete as this.

Mrs. MINK. If the gentleman will yield further, with respect to the so-called authority of the Administrator to make inspections by lot, there would be no further authority under the section to make such a demand with respect to canned goods that are imported?

Mr. MELCHER. There is present authority for the Food and Drug Administrator to look at any sample he wants. The purpose of this amendment is to give him statutory guidance to look at every lot that comes in. And in this case now, with my perfecting amendment, we are limiting it to fresh and frozen fruits and vegetables, and dairy products. It does not change the rest of the authority of the Food and Drug Administration to do so on a random basis or whatever they wish to do on other products such as canned products.

Mrs. MINK. If the gentleman will yield further, I regret very much this deletion of the canned goods area because this was one part of this section which I supported most enthusiastically.

As the gentleman knows, in my own State the canning of pineapple will soon be a past activity of Hawaii. The three American canners of pineapple have gone overseas to the Orient to do their entire raising and canning of pineapple. It has been long our contention that we have as much responsibility to the consumers of this country with respect to what they are consuming in their food products if they are raised in the United States as if they were raised elsewhere. I was hopeful that this section 7 would be retained.

Mr. MELCHER. I must say that I must sympathize entirely with the gentlewoman's remarks, but I offer the perfecting amendment only to mitigate some of the objections raised by the gentleman from Pennsylvania.

Mr. FOLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am taking the well in this instance not as chairman of the Committee on Agriculture but rather as an individual member. I happen to be one of the few who voted against section 7 in the committee, and I feel compelled to state the reasons why I feel the Vigorito amendment should be adopted and the Melcher perfecting amendment rejected.

A superficial glance at section 7 might persuade Members that this is in the interest of agriculture. Last year the United States earned over $20 billion in agricultural exports. After we imported almost every ounce of coffee, tea, cocoa, and other items produced in other countries, we netted over $12 billion in earnings from that great agricultural export effort. Our agricultural exports are the brightest part of our balance-of-payments situation.

Section 7 of this bill and, to a lesser but very real extent, the Melcher perfecting amendment both constitute a very real threat to the viability of our trade capacity. Stripped of all the verbiage, this is strictly a nontariff trade barrier.

Mr. Chairman, I respect the gentleman from Montana (Mr. MELCHER) for his abilities and dedication as much as I respect any Member in this House. I have had the pleasure of serving with few Members who I think are more able in their efforts to mobilize effective support behind an issue than the gentleman from Montana (Mr. MELCHER).

The gentleman from Montana has for years been seeking to establish additional requirements for the inspection of imported meat, even though under the 1967 Meat Inspection Act all foreign suppliers of meat must have an inspection system equal to our own as attested to by our certifiers of the inspection systems in other countries. Notwithstanding that, the gentleman from Montana wanted to open up every lot of foreign meat as it came into the United States.

The committee did not act on that bill in its original form, so he presented an amendment under the guise of the pesticide legislation which provides that we must look at every lot of every agricultural product arriving in the United States when pesticides not permitted in this country are used in producing meat.

Mr. Chairman, in its pure form, section 7 will cost three times as much, with one amendment, as the entire bill does. It would cost $140 million, and provide for 6,000 new inspectors.

I am surprised, if I may say so, that the voices I always hear from some quarters of this House on both sides in support for economy in Government and the removal of unnecessary Federal employees are being heard now in support of what constitutes the biggest additional unnecessary force of Government employees ever to be brought to the floor in an agricultural bill during the 11 years I have been here.

This is $140 million for inspection that is redundant and serves no purpose, except to restrict trade on agricultural products coming into this country.

Mr. Chairman, we earn more than we buy. We get twice as much of the benefit from agricultural trade as all the rest of the world put together. It is a far cry from supporting agriculture to encourage Venezuela, as we did not too many years ago, to require that every egg sent by the United States be stamped, "Produced in the United States of America," and to set up all the trade barriers that any country can immediately devise to retaliate for this proposal.

Mr. Chairman, this is an anti-agricultural provision, designed to be a nontariff trade barrier. Moreover, it is an expensive one. The Melcher perfecting amendment costs $30 million or $40 million; the gentleman is not quite sure which.

We do not know what an agricultural lot is. If we did, it would have been written in the report. Is it a ship, a cargo hold, a container within a cargo hold, or a carton within a container?

A lot is what the custom of the trade determines it to be.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Montana.

Mr. MELCHER. Mr. Chairman, the term, "lot," is clearly identified by Customs because they apply the duty against it. The gentleman is misleading the House when he suggests that we are laying a booby trap in this amendment against the country.

Mr. FOLEY. Mr. Chairman, I refuse to yield further.

The gentleman knows very well that a "lot" in one case is not a "lot" in another. He knows that very well.

Under section 7 it is estimated by the Food and Drug Administration that we are talking about 500,000 lots a year. Stated another way, that is half a million lots a year.

The CHAIRMAN. The time of the gentleman from Washington (Mr. FOLEY) has expired.

(By unanimous consent, Mr. FOLEY was allowed to proceed for 2 additional minutes.)

Mr. FOLEY. Mr. Chairman, the Secretary of the Treasury must, under the terms of this amendment and under the terms of section 7 of the act, stop any unloading until there has been an opportunity to examine every lot.

It will take the FDA, under section 7, 1,000 inspector positions to collect samples; for the examination of lot samples, 3,300 people, and for administrative and support functions an additional 1,900 people. This total amounts to 6,200 additional people for FDA alone, and this has nothing to do with the Department of Agriculture.

It seems to me that if there is a need for this kind of proposal, it ought to be presented in a separate piece of legislation so that we can examine it fully in separate hearings. It should not be a back-door intrusion into the pesticide bill, costing three times or at least equal to what the whole bill requires, and adding many thousands of employees. In my judgment, it is an unnecessary, redundant inspection, designed only to work against the interests of American agriculture.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. Yes, if I have any time.

(On request of Mr. ICHORD and by unanimous consent, Mr. FOLEY was allowed to proceed for 3 additional minutes.)

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. Yes, I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I have listened to the distinguished chairman, the gentleman from Washington (Mr. FOLEY), and his argument impresses me very much, particularly the argument as to costs.

At the same time, however, this question came to my mind: Has not the gentleman from Montana (Mr. MELCHER) perhaps pinpointed very well the undesirability of all of this legislation, if not the foolishness of the legislation? I ask the gentleman the question. What good does it do to restrict the application of pesticides that will be dangerous

to health if we are going to permit the importation of products from abroad that permit the application of pesticides?

Mr. FOLEY. We do the same thing with imported products as we do with domestic products. We look at them by random samples.

The gentleman from Montana (Mr. MELCHER) wants to look at every lot, something which we do not now do with domestic products. His answer is that along with a restriction on domestic products, we restrict them on the foreign side. What we will end up with is the almost impossible task of the inspection of every lot. It sounds very easy, but it is probably a matter of 500,000 lots. If we approve the perfected version of the amendment, it may involve 100,000 or 200,000—I do not know how many—fresh and frozen fruit and vegetable lots and dairy product lots which come into the United States every year through various ports of entry.

If the object is to restrict imports, and I think that if it were candidly stated, that is its purpose, at least we would have the issue frankly presented. But why should we restrict our imports when we export twice as much as we import?

Mr. ICHORD. I would ask the gentleman further this question. Perhaps we are getting the cart before the horse.

Maybe we could enter into agreements with countries from which we are going to import to put restrictions upon their farm producers.

Mr. FOLEY. Perhaps we should, and I think there is nothing wrong in considering this legislation in a carefully balanced way.

However, it has been presented here with considerably more amendments than when it was in committee, and now it is on the floor with enormous costs.

I think it ought to be taken out of the bill and considered in a separate piece of legislation.

I am happy to tell the gentleman that if this were done under separate legislation, it would be promptly considered by the committee.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. Yes, I will yield to the gentleman from Florida.

Mr. KELLY. Mr. Chairman, what testimony and base did your committee have for arriving at the Melcher amendment?

Mr. FOLEY. I do not think there was any testimony on the Melcher amendment.

Mr. KELLY. It did not have any at all?

Mr. FOLEY. No.

Mr. KELLY. Then the committee was not advised as to what the impact would be on the export situation with respect to American agriculture?

Mr. FOLEY. Not by committee witnesses, because the matter was not discussed in the hearing.

Mr. KELLY. Then the gentleman views this as being a dangerous amendment with respect to agriculture since we do not know precisely what the situation is?

Mr. FOLEY. Yes, sir; I do.

Mr. KELLY. I thank the gentleman.

Mr. JOHNSON of Colorado. Mr. Chairman, I rise to speak against the amendment.

Mr. Chairman, I would like to point out to the members of the Committee of the Whole that the Melcher amendment passed in the committee by a vote of 29 to 2—29 to 2. It is no more correct and no more accurate of the chairman to say that the Melcher amendment is designed to restrain imports than it is to say that the EPA is designed purposely to try to curtail agricultural products. We will not accept that argument so why accept the argument that this is designed to curtail imports?

Let me point out a few other facts. First of all I refer to the language of section 7 of the legislation.

It says:

> The Secretary of the Treasury shall notify the Administrator of the arrival of any lot——

Whatever a "lot" might be is, of course, in controversy.

> of an agricultural commodity or product produced in a country or area which permits the use on such commodity or product of pesticides which the Administrator has refused to register or the registration of which has been suspended or cancelled.

We have gone through the argument about the necessity of allowing the EPA to make the decision as to what should be rejected and what should be registered. With respect only to domestic products the EPA is the supreme agency, we have decided upon rejection of the Poage-Wampler amendment. The EPA is the one that is trying to protect us. But we cannot allow the EPA regulations to be applied to foreign commodities? Really, Mr. Chairman, this does not make any sense, there is no rationale, no logic to that kind of a position.

If we are going to say it is only because of foreign agriculture and the impact of imports and exports that we are making these decisions then we are totally ignoring the health argument. Why grant the EPA authority and allow it to restrict the use and certification of these various pesticides if it is not for reasons of health?

We are talking about the economy and the need and the impact of the EPA regulations on the economy but why do we not consider the impact on the domestic economy. Why is there not some concern about restrictions that they place on domestic farmers and domestic production? That is not really the argument that is presented. All we are concerned about then is health when we are concerned with the domestic aspect of it but when we talk about the foreign aspect and its application, then the argument is made about the economy. We cannot have it both ways. If we are going to place emphasis on health in the domestic aspect, then we must also do so on the foreign aspect.

Now I will yield to the gentleman from Montana (Mr. MELCHER) who I believe had some figures he wanted to put on record.

Mr. MELCHER. Mr. Chairman, I thank the gentleman for yielding to me.

The figures for fresh and frozen fruits, 48,200 lots and 104,000 fresh and frozen vegetable lots. And 18,000 dairy lots that would be subject to Food and Drug Administration samplings for a year. That is the key point to answer the argument about 500,000 lots as has been estimated by the Food and Drug Administration, these are the estimates on the food products that are most necessary for sampling. Therefore, the 500,000 is not correct nor is the matter of the $136 million because we have reduced the number or volume to one-third of that and consequently the amount of money would be about one-third.

Mr. JOHNSON of Colorado. I thank the gentleman from Montana for that information.

I would now yield to the gentleman from Washington to respond, after I make one further comment.

Mr. Chairman, it seems to me the argument about money is a fallacious argument because if we are talking about health, what is $136 million to a House that passes two or three billion dollar programs after a couple of hours, but, to talk about health, no.

Remember, we are not talking about the economy; we are talking about the health of the people of the United States, and in that regard we shall likely find that there are no limitations. And since we do not know what the actual limitations are in this case or what the amount to be expended actually is, I think the argument about the expense is really just a false smokescreen.

I yield to the gentleman from Washington.

Mr. FOLEY. I appreciate the gentleman's yielding.

The perfecting amendment offered by the gentleman from Montana does not change the fact that the Secretary of the Treasury must make notifications of the arrivel of every ship that arrives containing any agricultural product. Inspection by lot would only be required for fresh fruits and vegetables and dairy products, but there would have to be notification of every agricultural lot. I think it is going to be well over one-third of the cost he predicts or about $45 million. In fact, I think it is going to be substantially more than that. The whole bill involves only $47 million for every aspect of FIFRA, so even with the perfecting amendment, we are up to roughly the equal of the whole bill in costs.

I want to say one other thing to the gentleman. If we are concerned about health, then we might as well look at every lot of American products.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. FOLEY, and by unanimous consent, Mr. JOHNSON of Colorado was allowed to proceed for 1 additional minute.)

Mr. FOLEY. If the gentleman will yield further, there are much worse problems than pesticide residues. When we talk about a virulent poison, what about botulism? We do not examine every single lot of canned goods in the United States to determine whether it has botulism or not. We would not think that to be cost effective, even though botulism is usually

mortal to those who consume the spores. I think all of the arguments aside, in my judgment, this comes down to a restriction on trade, and nothing more nor less than that.

Mr. JOHNSON of Colorado. I think the Chairman knows the difference between an inspection for botulism and an inspection for products which have been restricted, and which restriction the American farmer is following. The law that the EPA will be imposing upon him is a totally different situation than inspecting to see whether or not foreign producers are applying pesticides which by our own laws we prevent our people from applying.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BALDUS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think the meaning of this might have been somewhat bent, but as I read on page 7, lines 7 through 13, it says that if the Secretary of the Treasury knows that another country is using chemicals or pesticides that are restricted here, or not allowed to be used here, then it is his responsibility to notify the Administrator. On the other hand, if he does not know that, then he does not have any responsibility.

In other words, what he is saying is that if they are using something over there that we say here is hazardous to our health, then it is his responsibility to say, we decided that that is hazardous to our health, and we want it inspected to see whether it may be hazardous to our health, where they may have used that chemical because they have not restricted it. If that is so, all they would have to do in that country is do the same thing we have done, and that may be helpful to them as well as to us. It certainly would not restrict trade with them at all.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Montana (Mr. MELCHER).

The perfecting amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. VIGORITO).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 31, noes 20.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 8. Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by the addition at the end thereof of the following new subsection (d):

"(d) SCIENTIFIC ADVISORY PANEL.—The Administrator shall submit to an advisory panel for comment as to the impact on health and the environment of the action proposed in notices of intent issued under section 6(b) and of the proposed and final form of regulations issued under section 25(a) within the same time periods as provided for the comments of the Secretary of Agriculture under such sections. The time requirements for notices of intent and proposed and final forms of regulation may not be modified or waived unless in addition to meeting the requirements of section 6(b) or 25(a), as applicable, the advisory panel has failed to comment on the proposed action within the prescribed time period or has agreed to the modification or waiver. The comments of the advisory panel and the response of the Administrator shall be published in the Federal Register in the same manner as provided for publication of the comments of the Secretary of Agriculture under such sections. The panel referred to in this subsection shall consist of seven members appointed by the Administrator from a list of 12 nominees six nominated by the National Institutes of Health, and six by the National Science Foundation. Each member of the panel shall receive per diem compensation at a rate not in excess of that fixed for GS–18 of the General Schedule as may be determined by the Administrator, except that any such member who holds another office or position under the Federal Government the compensation for which exceeds such rate may elect to receive compensation at the rate provided for such other office or position in lieu at the compensation provided by this subsection."

SEC. 9. Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by adding at the end thereof the following new sentence:

"The Administrator, in determining whether or not such emergency conditions exist, shall consult with the Secretary of Agriculture and the Governor of any State concerned if they request such determination."

SEC. 10. Section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is hereby amended to read as follows:

"(u) PESTICIDE.—The term 'pesticide' means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and (2) any substance or mixture of substance intended for use as a plant regulator, defoliant, or desiccant: *Provided*, That the term 'pesticide' shall not include any article (1)(a) that is a 'new animal drug' within the meaning of section 201(w) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(w)), or (b) that has been determined by the Secretary of Health, Education, and Welfare not to be a new animal drug by a regulation establishing conditions of use for the article, or (2) that is an animal feed within the meaning of section 201(x) of such Act (21 U.S.C. 321(x)) bearing or containing an article covered by clause (1) of this proviso."

SEC. 11. Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by adding at the end thereof the following new subsection:

"(g) EXEMPTION FOR AGRICULTURAL RESEARCH AGENCIES.—Notwithstanding the foregoing provisions of this section, the Administrator may issue an experimental use permit for a pesticide to any public or private agricultural research agency or educational institution which applies for such permit. Each permit shall not exceed more than a one-year period or such other specific time as the Administrator may prescribe. Such permit shall be issued under such terms and conditions restricting the use of the pesticide as the Administrator may require: *Provided*, That such pesticide may be used only by such research agency or educational institution for purposes of experimentation."

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that sections 8, 9, 10 and 11 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

AMENDMENT OFFERED BY MR. RICHMOND

Mr. RICHMOND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RICHMOND: Page 10, after line 21, add the following new section:

SEC. 12. Section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by adding at the end thereof the following new subsection:

"(c) Instruction in Integrated Pest Management Techniques.—Standards prescribed by the Administrator for the certification of applicators of pesticides under subsection (a), and State plans submitted to the Administrator under subsections (a) and (b), shall include provisions for making instructional materials concerning integrated pest management techniques available to individuals at their request, but such plans may not require that any individual receive instruction concerning such techniques or be shown to be competent with respect to the use of such techniques. The Administrator and States implementing such plans shall provide that all interested individuals are notified of the availability of such instructional materials."

Mr. RICHMOND. Mr. Chairman, this amendment requires EPA to make information about integrated pest management available to farmers on request.

Integrated pest management is an alternative to using only chemicals for pest control. It is an integrated approach, using what is most appropriate and energy-efficient in a given situation: Crop rotation, fallowing, conservation, biological controls, beneficial insect introduction, and so on are common integrated pest management techniques. This encourages using chemical pesticides only when necessary, thus cutting down use of petroleum-based products, and saving farmers money. IPM is beneficial in a manner similar to many sound farm management practices now widely used.

Integrated pest management has not been given proper consideration by the USDA. No real effort has been made to advance the benefits of these techniques. USDA does have some materials available on IPM, but if one looks at their publications list, it is almost impossible to tell which of the publications deal with this subject. So the farmer or other pesticide user has no way of knowing what the alternatives are.

Right now, the farmer or other pesticide user gets his only information on pest control and pesticide use from the pesticide salesman. And these salesmen obviously have a vested interest in promoting maximum use of the chemical pest control agents.

USDA does not have the manpower necessary to promote IPM properly. USDA county agents are spread too thin and have too many additional responsibilities to spend a great deal of time teaching farmers and others about alternatives to chemical farming.

With the EPA's major responsibility for pesticides, they need additional authority to continue fulfilling that responsibility.

This amendment provides an opportunity for farmers and others to receive instruction or other information on integrated pest management at no cost to them. The amendment does not affect the certification process; it only adds a provision that EPA provide information on request.

The intent of the amendment is to make instructional materials and infor-

mation available. No one is required to receive material or take instruction.

The purpose of this in the long run is to save our energy resources through promoting more energy-efficient pest control practices. This will help save the farmer money by showing him where he can use natural means to complement chemical control of pests. The amendment creates no additional bureaucracy, costs no additional money, and will help both farmers and consumers.

While USDA is moving in this direction, I feel they need a push. This amendment provides that EPA will see this effort is made. EPA should work closely with USDA in this, relying on USDA materials and expertise. Hopefully, USDA will want to cooperate with EPA.

The amendment is supported by a number of environmental groups and others, and I urge my colleagues to support it.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, as I understand the gentleman's amendment, he wants to require that information and instructional materials on integrated pest management be available for those who are private applicators or other users of insecticides and pesticides. Am I correct in this assessment?

Mr. RICHMOND. That is right.

Mr. FOLEY. Mr. Chairman, speaking for myself, I would accept it.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I compliment the gentleman for his amendment and I point out that the law already mandates that EPA be active in this. They have not been as active as I would like to have seen and the gentleman's amendment will contribute to that. I commend him for the amendment.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Chairman, I commend the gentleman for his amendment making this information available upon request. It is important that farmers desiring information on harmless nonchemical means for controlling pests and insects be furnished it. I am happy to support the amendment.

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from Virginia.

Mr. WAMPLER. Mr. Chairman, I have not seen a copy of the gentleman's amendment. Is this the same amendment offered in the committee or has it been altered?

Mr. RICHMOND. Yes, it has been altered. Nothing is mandatory. It is only that the information will be available, because I will say to the gentleman from Virginia (Mr. WAMPLER) that if it is possible to grow crops without chemical pesticides, we should make that information available to farmers.

Mr. WAMPLER. Mr. Chairman, the amendment appears to be harmless. However, I just simply cannot say, because I have not had an ample opportunity to examine it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. RICHMOND).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RICHMOND

Mr. RICHMOND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RICHMOND: Page 10, immediately after line 21, add the following new section:

SEC. 12. Section 2(e)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended—

(1) by inserting "with respect to a building or other property used in connection with a farming operation" immediately after "if it is applied"; and

(2) by adding the following new sentence at the end thereof: "Unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied with respect to a building or other property not used in connection with a farming operation and by a competent person who is acting under the instruction and control of a commercial applicator (even though such commercial applicator is not physically present at the time and place the pesticide is applied, so long as he is available if and when needed) and who has received training in, and been tested with regard to, the labeling and safe use of restricted pesticides. Such training and testing shall be provided by the Administrator or any State administering a State certification plan. Although such training and testing shall not be as extensive as that which is required of a commercial applicator, the testing must demonstrate that the person is competent with respect to the use of restricted pesticides."

Mr. RICHMOND. Mr. Chairman, this amendment applies many fumigators and exterminators in homes, restaurants, office buildings, and schools are not trained or tested in proper use of pesticides. Some of the worst abuses of pesticides occur in these urban areas.

Nationwide, regulations governing training or testing of exterminators are totally inconsistent. Only 15 States require exterminators to be trained or tested in proper use of pesticides. Even among these 15, training is required only in certain circumstances. Many local jurisdictions and municipalities have regulations governing training of exterminators, but again, this is totally inconsistent throughout the country. Many localities do not have any regulations governing such training. The Federal law covers only supervisors, who need not even be present when the exterminator is spraying.

A study by the Health Research Group, shows only 16 percent of the exterminator companies in the Washington, D.C., area require on-the-job training. Even in New York City, while regulations have been proposed, they have not been implemented. And New York State has no requirements. Other States with no requirements for training and testing of exterminators are: Nebraska, Kansas, Missouri, Wisconsin, Minnesota, Indiana, Ohio, Vermont, Rhode Island, Arizona, Hawaii, Alaska, North Dakota, South Dakota, Wyoming, plus several more.

This amendment requires all commercial operators, the ones who actually do the spraying, to be trained before they come into our homes, schools, restaurants, or offices. The amendment applies only to using restricted pesticides on nonfarm buildings and nonfarm property. The amendment in no way affects application of pesticides of farm buildings or farm property. In those areas, existing law applies.

Any person who handles pesticides hazardous enough to be classified for restricted use should have to demonstrate a basic knowledge of how to use the material he is handling.

Under this amendment, testing of these pest control operators cannot be vigorous as that given to the certified supervisor, but the exterminator must show he or she is competent to use hazardous materials. Full certification is not necessary, only a simple demonstration of competence.

This amendment is supported by the Friends of the Earth, the Health Research Group, the Environmental Policy Center, and other environmentalists.

Opponents of this amendment may argue it creates an additional bureaucracy, or will trigger high wage demands by exterminators. However, the experience in Cleveland, where a training requirement has been in effect for some time, shows this is not the case: Prices have not risen, employees have not left, businesses have not gone bankrupt.

The exterminating and fumigating industry already keeps records on employees, what they apply, where they apply it, and other data, which can be used by EPA in monitoring and auditing and in establishing training requrements. The present chaotic situation presents a serious health problem, and corrective action must be taken. I urge my colleagues to support this vital amendment.

Mr. FOLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am not sure exactly how to phrase my statement with regard to the gentleman's amendment. I am not sure that this is an amendment which I would perhaps on reflecting like to support, but I suggest that it is perhaps premature.

The EPA is in the process of defining the regulations under which commercial applicators will be permitted to utilize hazardous pesticides.

We are going to be, in any case, considering an extension of legislation which we have before us, which by terms of this bill expires, by the way, in 1976 in October and we will be considering this legislation again in the spring.

Frankly, I do not know the full impact of this amendment. It would, in effect, require, as I understand it, those who work in commercial applicating, like Orkin, for example, or anyone working in pesticide control applications that are nonfarming have the same qualifications and pass the same tests required as the commercial applicator himself, unless he was present.

I would hope, with all respect and deference to the gentleman from New York, that perhaps we could not accept this amendment at this time and to consider

in our on-going consideration of the EPA regulations, or perhaps it may be required in a subsequent authorization of this legislation; so, reluctantly, I would have to oppose the amendment.

Mr. RICHMOND. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from New York.

Mr. RICHMOND. Mr. Chairman, this amendment only requires that the applicator that comes to our houses receive some training. This operation does work out in Cleveland very well and it works out in many other cities in the Nation. It is a constructive amendment. All it does is make sure that the person that comes to our houses knows what he is doing. This is strictly an urban amendment protecting the urban home. I do not think anybody should find it particularly objectionable.

Mr. FOLEY. Mr. Chairman, again I am not sure that I would not find the gentleman's amendment acceptable if I knew a little more clearly what the EPA restrictions require.

I think we would have a chance to better consider the gentleman's amendment next year in May or June when we will be bringing this matter back before the House for its consideration. In the meantime, I would like to ask the EPA for a study and response as to what, if anything, is needed in this area, in terms of additional legislation.

I commend the gentleman for his concern. I am not sure that he has not got a good amendment, but I think we should take a little more time to learn what the EPA actually intends to do in this area before legislating specific requirements.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I would like to congratulate the gentleman from New York for his amendment. It seems to me that since we are going to require farmers to go to school, that we ought to require the urban people who are going to be killing pests in cities to go to school and take tests, and if they do not have to pass them, that is beside the point.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I think the gentleman from New York (Mr. RICHMOND) has a good amendment. I have had experience myself with inadequately trained pesticide applicators coming into my house and actually killing a cat when they were supposed to be trying to get rid of the mice and rats. I think a minimal training requirement, as is required at the present time in 15 States, to be administered by the States, is a good idea. I hope the gentleman's amendment can be supported.

Mr. FOLEY. Mr. Chairman, the other point I would make is that the requirements for certified applicators do not become effective until October 1976. We have additional time to consider this matter. If I find myself caught between the representatives of rural America in the person of the gentleman from Colorado (Mr. JOHNSON) and the representatives of urban America in the person of the gentleman from New York (Mr. OTTINGER), I may find myself standing for an unpopular cause, and would, therefore, be happy to have the case decided by the Members of the Committee.

Mr. WAMPLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I concur in the observations made by the distinguished chairman of the committee. In view of the fact that this is a 1-year authorization and the Committee on Agriculture will be considering this subject again next year, I think the amendment offered by the gentleman from New York should be defeated. This is a matter we can examine more closely and in greater detail when we consider the bill next year. I urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. RICHMOND).

The question was taken; and on a division (demanded by Mr. RICHMOND) there were—ayes 20; noes 44.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. O'NEILL) having assumed the Chair, Mr. HUNGATE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8841) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 1 year, pursuant to House Resolution 734, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. O'NEILL). Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment?

Mr. WAMPLER. Mr. Speaker, I demand a separate vote on the so-called Bergland amendment to section 5.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment? If not, the Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment offered by Mr. BERGLAND: On page 6 delete all after the first colon on line 13 through line 17 and insert in lieu thereof the following: ": *Provided, however*, That the certification standard for a private applicator shall be deemed fulfilled by his completing a certification form. The Administrator shall further assure that such form contains adequate information and affirmations to carry out the intent of this Act, and may include in the form an affirmation that the private applicator has completed a training program approved by the Administrator so long as the program does not require the private applicator to take any examination to establish competency in the use of the pesticide. The Administrator may require any pesticide dealer participating in a certification program to be licensed under a State licensing program approved by him."

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WAMPLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 250, nays 155, not voting 28, as follows:

[Roll No. 609]

YEAS—250

Abzug	Fascell	Mann
Adams	Fenwick	Martin
Addabbo	Fish	Matsunaga
Alexander	Fisher	Mazzoli
Ambro	Flood	Meeds
Anderson, Calif.	Foley	Melcher
	Ford, Mich.	Metcalfe
Anderson, Ill.	Fountain	Meyner
Andrews, N. Dak.	Fraser	Mezvinsky
	Frenzel	Mikva
Annunzio	Gaydos	Miller, Calif.
Ashley	Giaimo	Mills
Aspin	Gibbons	Mineta
Badillo	Gilman	Minish
Baldus	Gradison	Mink
Barrett	Green	Mitchell, Md.
Baucus	Gude	Mitchell, N.Y.
Beard, R.I.	Haley	Moakley
Beard, Tenn.	Hall	Moffett
Bedell	Hamilton	Mollohan
Bennett	Hanley	Moorhead, Pa.
Bergland	Hannaford	Morgan
Bevill	Harkin	Mosher
Biaggi	Harrington	Moss
Bingham	Harris	Mottl
Blanchard	Hawkins	Murphy, Ill.
Blouin	Hayes, Ind.	Myers, Pa.
Boland	Hays, Ohio	Neal
Bolling	Hechler, W. Va.	Nedzi
Bonker	Heckler, Mass.	Nix
Brademas	Hefner	Nolan
Breckinridge	Helstoski	Nowak
Brodhead	Hicks	Oberstar
Brooks	Hightower	Obey
Broomfield	Holland	O'Hara
Brown, Calif.	Holtzman	O'Neill
Brown, Mich.	Horton	Ottinger
Buchanan	Howard	Patten, N.J.
Burke, Calif.	Howe	Patterson, Calif.
Burke, Mass.	Hubbard	
Burlison, Mo.	Hungate	Pattison, N.Y.
Burton, John	Jacobs	Pepper
Burton, Phillip	Jarman	Pickle
Carney	Jeffords	Pike
Carr	Jenrette	Poage
Casey	Johnson, Calif.	Preyer
Cederberg	Johnson, Pa.	Price
Clausen, Don H.	Jones, Ala.	Rangel
	Jones, N.C.	Rees
Clay	Jones, Okla.	Reuss
Cleveland	Jones, Tenn.	Richmond
Collins, Ill.	Jordan	Rinaldo
Conte	Karth	Roberts
Conyers	Kastenmeier	Rodino
Corman	Kemp	Roe
Cornell	Keys	Rogers
Cotter	Koch	Roncalio
Coughlin	Krebs	Rose
D'Amours	LaFalce	Rosenthal
Daniels, N.J.	Leggett	Rostenkowski
Danielson	Lehman	Roush
de la Garza	Lent	Roybal
Delaney	Levitas	Ruppe
Dellums	Litton	Russo
Diggs	Lloyd, Calif.	St Germain
Dingell	Lloyd, Tenn.	Sarasin
Dodd	Long, La.	Sarbanes
Downey, N.Y.	Long, Md.	Scheuer
Drinan	McDade	Schroeder
Duncan, Tenn.	McFall	Seiberling
Early	McHugh	Sharp
Eckhardt	McKinney	Simon
Edgar	Macdonald	Slack
Edwards, Calif.	Madden	Smith, Iowa
Eilberg	Maguire	Solarz

Spellman	Sullivan	Walsh
Staggers	Thompson	Weaver
Stanton, James V.	Thornton	Whalen
Stark	Traxler	Wirth
Steed	Tsongas	Wolff
Steelman	Ullman	Wydler
Stokes	Vander Jagt	Wylie
Stratton	Vander Veen	Yates
Studds	Vanik	Zablocki
	Vigorito	Zeferetti

NAYS—155

Abdnor	Frey	Patman, Tex.
Andrews, N.C.	Fuqua	Perkins
Archer	Ginn	Pettis
Armstrong	Gonzalez	Pressler
Ashbrook	Goodling	Pritchard
AuCoin	Grassley	Quie
Bauman	Guyer	Quillen
Bell	Hagedorn	Randall
Biester	Hammer-schmidt	Regula
Bowen	Hansen	Risenhoover
Breaux	Harsha	Robinson
Brinkley	Hastings	Rooney
Brown, Ohio	Heinz	Runnels
Broyhill	Hillis	Satterfield
Burgener	Holt	Schneebeli
Burleson, Tex.	Hughes	Schulze
Butler	Hutchinson	Sebelius
Byron	Hyde	Shipley
Carter	Ichord	Shriver
Chappell	Johnson, Colo.	Shuster
Clancy	Kasten	Sikes
Clawson, Del	Kazen	Skubitz
Cochran	Kelly	Smith, Nebr.
Cohen	Ketchum	Snyder
Collins, Tex.	Kindness	Spence
Conable	Krueger	Stanton, J. William
Conlan	Lagomarsino	Steiger, Ariz.
Crane	Landrum	Steiger, Wis.
Daniel, Dan	Latta	Stephens
Daniel, R. W.	Lott	Stuckey
Davis	Lujan	Symington
Dent	McClory	Talcott
Derrick	McCloskey	Taylor, Mo.
Derwinski	McCormack	Teague
Devine	McDonald	Thone
Dickinson	McEwen	Treen
Downing, Va.	McKay	Van Deerlin
Duncan, Oreg.	Madigan	Waggonner
du Pont	Mahon	Wampler
Edwards, Ala.	Mathis	White
Emery	Michel	Whitehurst
English	Milford	Whitten
Erlenborn	Miller, Ohio	Wiggins
Esch	Montgomery	Wilson, Bob
Eshleman	Moore	Wilson, Tex.
Evans, Colo.	Moorhead, Calif.	Winn
Evans, Ind.	Murtha	Wright
Findley	Myers, Ind.	Yatron
Fithian	Natcher	Young, Alaska
Florio	Nichols	Young, Fla.
Flowers	O'Brien	Young, Tex.
Flynt		
Forsythe		

NOT VOTING—28

Bafalis	Hinshaw	Santini
Boggs	McCollister	Sisk
Burke, Fla.	Murphy, N.Y.	Symms
Chisholm	Passman	Taylor, N.C.
Evins, Tenn.	Peyser	Udall
Fary	Railsback	Waxman
Ford, Tenn.	Rhodes	Wilson, C. H.
Goldwater	Riegle	Young, Ga.
Hébert	Rousselot	
Henderson	Ryan	

The Clerk announced the following pairs:

On this vote:

Mr. Riegle for, with Mr. Hébert against.

Mrs. Boggs for, with Mr. Passman against.

Mr. Sisk for, with Mr. Symms against.

Mrs. Chisholm for, with Mr. Rousselot against.

Mr. Young of Georgia for, with Mr. McCollister against.

Until further notice:

Mr. Henderson with Mr. Bafalis.

Mr. Evins of Tennessee with Mr. Goldwater.

Mr. Charles H. Wilson of California with Mr. Hinshaw.

Mr. Waxman with Mr. Burke of Florida.

Mr. Murphy of New York with Mr. Peyser.

Mr. Fary with Mr. Rhodes.

Mr. Ford of Tennessee with Mr. Santini.

Mr. Ryan with Mr. Railsback.

Mr. Taylor of North Carolina with Mr. Udall.

Mrs. PETTIS and Messrs. SHIPLEY, ANDREWS of North Carolina, FLYNT, CHARLES WILSON of Texas, MURTHA, GINN, FUQUA, HARSHA, KRUEGER, RISENHOOVER, RANDALL, DAVIS, BRINKLEY, YATRON, MATHIS, ENGLISH, MONTGOMERY, FITHIAN, and SYMINGTON changed their vote from "yea" to "nay."

Messrs. STEELMAN, AMBRO, BUCHANAN, SIMON, LENT, RINALDO, and HOWARD changed their vote from "nay" to "yea."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute as amended.

The amendment as amended was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WAMPLER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 329, nays 80, not voting 24, as follows:

[Roll No. 610]

YEAS—329

Abzug	Burlison, Mo.	Fascell
Adams	Burton, John	Fenwick
Addabbo	Burton, Phillip	Fish
Alexander	Butler	Fisher
Ambro	Carney	Fithian
Anderson, Calif.	Carr	Flood
Anderson, Ill.	Casey	Florio
Andrews, N.C.	Chappell	Flowers
Andrews, N. Dak.	Chisholm	Foley
Annunzio	Clausen, Don H.	Ford, Mich.
Archer	Clay	Forsythe
Armstrong	Cleveland	Fraser
Ashley	Cochran	Frenzel
Aspin	Cohen	Frey
AuCoin	Collins, Ill.	Fuqua
Badillo	Conte	Gaydos
Baldus	Conyers	Giaimo
Barrett	Corman	Gibbons
Baucus	Cornell	Gilman
Beard, R.I.	Cotter	Goldwater
Bedell	Coughlin	Gonzalez
Bennett	D'Amours	Gradison
Bergland	Daniels, N.J.	Green
Bevill	Danielson	Gude
Biaggi	de la Garza	Haley
Biester	Delaney	Hall
Bingham	Dellums	Hamilton
Blanchard	Dent	Hammer-schmidt
Blouin	Derwinski	Hanley
Boggs	Diggs	Hannaford
Boland	Dodd	Harkin
Bolling	Downey, N.Y.	Harrington
Bonker	Downing, Va.	Harris
Bowen	Drinan	Hastings
Brademas	Duncan, Oreg.	Hawkins
Breaux	du Pont	Hayes, Ind.
Breckinridge	Early	Hays, Ohio
Brodhead	Eckhardt	Hechler, W. Va.
Brooks	Edgar	Heckler, Mass.
Broomfield	Edwards, Calif.	Hefner
Brown, Calif.	Eilberg	Heinz
Brown, Mich.	Emery	Helstoski
Broyhill	English	Hicks
Buchanan	Erlenborn	Hightower
Burke, Calif.	Esch	Hillis
Burke, Mass.	Eshleman	Holland
	Evans, Colo.	Holtzman
Horton	Mineta	Rostenkowski
Howard	Minish	Roush
Howe	Mink	Roybal
Hubbard	Mitchell, Md.	Ruppe
Hughes	Mitchell, N.Y.	Russo
Hungate	Moakley	St Germain
Hyde	Moffett	Sarasin
Jacobs	Mollohan	Sarbanes
Jarman	Montgomery	Scheuer
Jeffords	Moore	Schroeder
Jenrette	Moorhead, Calif.	Schulze
Johnson, Calif.	Moorhead, Pa.	Seiberling
Johnson, Pa.	Morgan	Sharp
Jones, Ala.	Mosher	Sikes
Jones, N.C.	Moss	Simon
Jones, Okla.	Murphy, Ill.	Slack
Jones, Tenn.	Murphy, N.Y.	Smith, Iowa
Jordan	Murtha	Solarz
Karth	Myers, Ind.	Spellman
Kasten	Myers, Pa.	Staggers
Kastenmeier	Natcher	Stanton, J. William
Kazen	Neal	Stanton, James V.
Kelly	Nedzi	Stark
Kemp	Nichols	Steed
Keys	Nix	Steelman
Koch	Nolan	Steiger, Wis.
Krebs	Nowak	Stokes
Krueger	Oberstar	Stratton
LaFalce	Obey	Studds
Landrum	O'Brien	Sullivan
Leggett	O'Hara	Symington
Lehman	O'Neill	Talcott
Lent	Ottinger	Thompson
Levitas	Patten, N.J.	Thornton
Litton	Patterson, Calif.	Treen
Lloyd, Calif.	Pattison, N.Y.	Tsongas
Long, La.	Pepper	Ullman
Long, Md.	Perkins	Van Deerlin
Lott	Pickle	Vander Jagt
Lujan	Pike	Vander Veen
McClory	Poage	Vanik
McCormack	Pressler	Vigorito
McDade	Preyer	Waggonner
McFall	Price	Walsh
McHugh	Pritchard	Wampler
McKay	Quie	Weaver
McKinney	Railsback	Whalen
Macdonald	Rangel	White
Madden	Rees	Whitehurst
Madigan	Regula	Whitten
Maguire	Reuss	Wiggins
Mann	Richmond	Wilson, Bob
Martin	Rinaldo	Wirth
Matsunaga	Risenhoover	Wolff
Mazzoli	Roberts	Wright
Meeds	Robinson	Wydler
Melcher	Rodino	Wylie
Metcalfe	Roe	Yates
Meyner	Rogers	Yatron
Mezvinsky	Roncalio	Zablocki
Michel	Rooney	Zeferetti
Mikva	Rose	
Milford	Rosenthal	
Miller, Calif.		
Mills		

NAYS—80

Abdnor	Evans, Ind.	Pettis
Ashbrook	Findley	Quillen
Bauman	Flynt	Randall
Beard, Tenn.	Fountain	Runnels
Bell	Ginn	Satterfield
Brinkley	Goodling	Schneebeli
Brown, Ohio	Grassley	Sebelius
Burgener	Guyer	Shipley
Burleson, Tex.	Hagedorn	Shriver
Byron	Hansen	Shuster
Carter	Harsha	Skubitz
Cederberg	Holt	Smith, Nebr.
Clancy	Hutchinson	Snyder
Clawson, Del	Ichord	Spence
Collins, Tex.	Johnson, Colo.	Steiger, Ariz.
Conable	Ketchum	Stephens
Conlan	Kindness	Stuckey
Crane	Lagomarsino	Taylor, Mo.
Daniel, Dan	Latta	Teague
Daniel, R. W.	Lloyd, Tenn.	Thone
Davis	McCloskey	Traxler
Derrick	McDonald	Wilson, Tex.
Devine	McEwen	Winn
Dickinson	Mahon	Young, Alaska
Dingell	Mathis	Young, Fla.
Duncan, Tenn.	Miller, Ohio	Young, Tex.
Edwards, Ala.	Mottl	

NOT VOTING—24

Bafalis	McCollister	Santini
Burke, Fla.	Passman	Sisk
Evins, Tenn.	Patman, Tex.	Symms
Fary	Peyser	Taylor, N.C.
Ford, Tenn.	Rhodes	Udall
Hébert	Riegle	Waxman
Henderson	Rousselot	Wilson, C. H.
Hinshaw	Ryan	Young, Ga.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Santini against.
Mr. Passman for, with Mr. Waxman against.

Until further notice:

Mr. Henderson with Mr. Rhodes.
Mr. Sisk with Mr. McCollister.
Mr. Taylor of North Carolina with Mr. Symms.
Mr. Evins of Tennessee with Mr. Bafalis.
Mr. Udall with Mr. Rousselot.
Mr. Charles H. Wilson of California with Mr. Burke of Florida.
Mr. Young of Georgia with Mr. Fary.
Mr. Patman with Mr. Ford of Tennessee.
Mr. Riegle with Mr. Peyser.
Mr. Ryan with Mr. Hinshaw.

Messrs. FORSYTHE and BIESTER changed their vote from "nay" to "yea."

Messrs. FOUNTAIN, HAGEDORN, Mrs. LLOYD of Tennessee, and Mr. HUTCHINSON changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN H.R. 8841

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill just passed, the Clerk shall have authority to make such changes in the section, subsection, and paragraph numbers as may reflect the action of the House and to make other purely clerical corrections as may be needed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a Joint Resolution of the House of the following title:

H. Con. Res. 424. Concurrent resolution providing for an adjournment of Congress from October 9 until October 20, 1975.

PROVIDING FUNDS FOR EXPENSES OF INVESTIGATIONS, HEARINGS, AND STUDIES TO BE CONDUCTED BY THE SELECT COMMITTEE ON MISSING PERSONS IN SOUTHEAST ASIA

Mr. HAYS of Ohio, from the Committee on House Administration, reported the following privileged resolution (H. Res. 744, Report No. 93–553), which was referred to the House Calendar and ordered to be printed:

H. RES. 744

Resolved, That the expenses of investigations, hearings, and studies to be conducted by the Select Committee on Missing Persons in Southeast Asia, acting as a whole or by subcommittee, not to exceed $350,000, including expenditures for the employment of investigators, attorneys, and clerical, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Speaker and the Committee on House Administration. Not to exceed $50,000 of the total amount provided by this reslution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Select Committee on Missing Persons in Southeast Asia shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. HAYS of Ohio. Mr. Speaker, I ask unanimous consent for the immediate consideration of House Resolution 744.

The SPEAKER pro tempore (Mr. McFALL). The Clerk will report the resolution.

The Clerk read the resolution as follows:

H. RES. 744

Resolved, That the expenses of investigations, hearings, and studies to be conducted by the Select Committee on Missing Persons in Southeast Asia, acting as a whole or by subcommittee, not to exceed $350,000, including expenditures for the employment of investigators, attorneys, and clerical, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202 (i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Speaker and the Committee on House Administration. Not to exceed $50,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Select Committee on Missing Persons in Southeast Asia shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Ohio (Mr. HAYS).

Mr. HAYS of Ohio. Mr. Speaker, I will be very brief.

This resolution simply funds the Select Committee on Missing Persons in Southeast Asia which was set up by the House of Representatives. The resolution passed the Subcommittee on Accounts unanimously, and it passed the Committee on House Administration unanimously.

I ask for a favorable vote on the resolution.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: On page 1, line 12, after the word "the" and before the word "Committee", insert the following: "Chairman of the".

The committee amendment was agreed to.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MARINE FISHERIES CONSERVATION ACT OF 1975

Mrs. SULLIVAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 200) to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Missouri.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 200, with Mr. SMITH of Iowa in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentlewoman from Missouri (Mrs. SULLIVAN) will be recognized for 1 hour, and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 1 hour.

The Chair recognizes the gentlewoman from Missouri (Mrs. SULLIVAN).

Mrs. SULLIVAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, before I begin the debate I would like to say that we are attempting to cut this debate down as closely as we can so that we can finish at a reasonable time, as we promised the Members yesterday. We will yield time to the opposition as well as to the proponents of the bill.

Mr. Chairman, I urge the support of this Chamber for H.R. 200, which has as its main thrust the preservation of our U.S. fishery resources. It is imperative that we take action at this time on this legislation if we are to preserve our fisheries stocks which have been depleted to the point of extinction by the depredations of the huge Communist bloc fishing fleets.

H.R. 200, the Marine Fisheries Conservation Act of 1975, received the overwhelming endorsement of my committee when it was reported to the House by a vote of 36 to 3, with one voting present, and I would emphasize that the bill deals only with our fishery resources and not other subjects such as deep seabed mining, which are before the Law of the Sea Conference.

H.R. 200 has my wholehearted support since, as I just mentioned, legislation such as this is desperately needed in order to preserve and manage our continued fishery resources.

Despite the urgings of many longtime advocates of such unilateral action, my committee moved slowly and deliberately in its effort to devise legislation which would regulate as well as assist our own fishermen, conserve our dwindling fishery resources, and share surplus stocks with foreign fishermen without imposing an undue burden on any segment of American fishermen, such as those who fish off the coasts of other countries, and without increasing or creating international tensions.

Several years ago, the task seemed all but impossible and an international agreement through the mechanism of the Law of the Sea Conference seemed to be not only the most likely but probably the only workable solution. Unfortunately, the international community, through the Law of the Sea, was unable to reach a consensus or even make any substantial progress, although it has met time and again in various places for extended periods of time.

Mr. Chairman, the Law of the Sea Conference involves some 140 nations and some 4,000 delegates, dealing with such complex and nationalistic matters as fishery resources, deep seabed minerals, rights of passage, and rights of pollution and technology in sovereign or territorial seas. This must of necessity involve an extended educational process before agreement can be reached. The Law of the Sea advocates, in their zeal, have failed to recognize this and thought that they could just come to agreement.

This could not be so, and it has not been so. Perhaps it may be so within the next 4 or 5 years. Meanwhile, our important fishery resources are facing extinction by overfishing from foreign fishing fleets. Thus, we cannot wait but must act unilaterally now. Legislation is necessary now to save our fishing industry and our resources, and it is also required to provide the impetus without which there is serious doubt that the efforts to obtain an international Law of the Sea Agreement through the auspices of the United Nations will ever reach fruition.

Mr. Chairman, the members of my committee and I have long been concerned about the serious plight of American fishermen and the progressive deterioration of our fishery resources. It has become increasingly clear that the regulatory power of our Government over these fisheries is insufficient. Experience has shown that unregulated, or only partially regulated fishing, almost invariably leads to decline of the resource and corresponding economic hardship for the fishermen, and that this has been one important factor in the decimation of American fishery resources.

As early as February of 1973, the administration proposed fisheries management legislation which was introduced by the then chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment Congressman JOHN D. DINGELL. That bill, H.R. 4760, was the subject of subcommittee hearings in May and July of 1973. Strong objections were expressed at those hearings by our coastal fishermen because the bill regulated only American fishermen and failed to deal with the main problem—overfishing by foreign fishermen of the fisheries resources off our shores.

In June 1974, Mr. DINGELL, Mr. BIAGGI, and I introduced an expanded version of this legislation, H.R. 15619. That bill required the Secretary of Commerce to promulgate regulations governing fishing in our 12-mile fishery zone and on the high seas, for the purpose of obtaining the optimum overall biological, economic and social benefits, and such regulations applicable to areas beyond the fisheries zone would be deemed unilateral measures of conservation by the United States within the meaning of article 7 of the 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas and, as such, would apply to foreign vessels of countries which are signatory to applicable international fishing agreements as well as U.S. fishermen.

After a 6-month period, under the terms of H.R. 15619, applicability of these regulations would have been extended to the vessels of all foreign nations whether or not they were party to the convention or other international agreements. I believed that this offered a workable method of preserving our fisheries resources through a regulatory system applicable to foreign as well as U.S. fishermen, without unilaterally extending our fishing zone.

At the same time, because of the growing pressure from members of my committee and other sponsors—some 170—of bills to extend our exclusive fishing zone, and because of the increasing likelihood that the Senate was moving toward early favorable action on such legislation to create a 200-mile fishing zone, we agreed to hold a series of field hearings throughout the country to find out what the thinking was in those areas where the problems were closest to home.

Between May and October of 1974, the subcommittee held 10 hearings from Maine to California and, with the single exception of San Pedro, Calif., home of America's tuna fleet which fishes off the coast of other countries, mainly Peru and Ecuador, the sentiment was unanimously in favor of a 200-mile fishing zone. In the waning days of the 93d Congress, the Senate passed a bill for this purpose by a vote of 68 to 27, after favorable reports by both the Commerce and Armed Services Committees, and despite an unfavorable vote by the Senate Foreign Relations Committee—by a very small margin.

In March of this year, I as full committee chairman, and the subcommittee chairman, Congressman ROBERT L. LEGGETT, decided that subcommittee hearings should begin in Washington on all pending legislation dealing with this subject, including my bill which was a preservation and management bill, H.R. 1070, and a composite bill combining my approach with the extension of our fishing zone to 200 miles, which was introduced by Congressman DINGELL so that all possible alternatives could be considered.

Mr. Chairman, I was unable to attend the field hearings last year but, along with Mr. LEGGETT and many other Members of his subcommittee, I spent most of a 3-week period this spring listening to witnesses on every side of this issue and gaining insight into the intensity of the problems we face in this area and the absolute necessity that something be done now if we are to preserve our fishery resources. Because this was the feeling of the overwhelming majority of the subcommittee, the staff and other interested persons were put to the task of preparing one bill containing the best of all the alternatives offered—that bill is H.R. 200 as reported by my committee.

Mr. Chairman, during this period, the Law of the Sea Conference met twice—in Caracas, Venezuela, during the summer of 1974 and in Geneva, Switzerland, early this year. Members of my committee and staff were in attendance at both of these meetings. On the basis of their first-hand impressions and despite the assurances of the Law of the Sea Task Force following each of those meetings, there is simply not one shred of measurable evidence that any real progress has been made toward accomplishment of an international agreement on the Law of the Sea at any time in the foreseeable future.

The adoption of a single negotiating text at the Geneva meeting represents no real progress; in fact, since it creates a lightning rod for all those who wish no

agreement or who oppose anything that this country advocates, this text may well hinder accomplishment of an agreement. I believe we must face up to the fact that, short of a miracle and without some outside irresistible force—such as passage of H.R. 200 may provide—there is virtually no chance that agreement will be reached at the New York Law of the Sea meeting this coming spring.

During my years in Congress, I know of no other single piece of legislation which has received more careful or thorough consideration than this bill. Every effort has been made to protect those segments of our fishing industry which fish off the coasts of other shores and to prevent the upheaval of our international relations in any way. What we are proposing in H.R. 200 is the equivalent of the U.S. position at the Law of the Sea Conference. Under the bill as reported by my committee, the 200-mile fishing zone would not take effect until July 1, 1976, a date which follows the New York meeting of the Law of the Sea Conference. Current treaties are not superseded by this legislation and virtually 99 percent of all the changes suggested by the Law of the Sea Task Force in their testimony were adopted by my committee.

Some question has been raised about the enforcement difficulties which might arise under this bill. Mr. Chairman, enforcement is not an insuperable obstacle. Enforcement does not have to be 100 percent to be effective. Also, the implicated Government agencies pretty well know where the fishing grounds are and where the fish will be, so it will not require a continuous picket line of enforcement vessels and aircraft around the Nation 200 miles at sea.

A question has been raised as to the United States acting unilaterally under H.R. 200. Mr. Chairman, unilateral U.S. action at sea is not a novel concept. There is ample precedent. The United States has previously unilaterally extended its fishing zone out to 200 miles. Also, under the Federal Water Pollution Control Act of 1972, the United States extended its pollution control authority in the so-called contiguous zone, beyond the 3-mile territorial sea. Under the Deep Water Port Act, passed last year, the Congress provided that both the Federal and State Governments can unilaterally assert their jurisdiction far beyond the 3-mile limit.

Mr. Chairman, the Marine Fisheries Conservation Act of 1975 is an idea whose time has come. We can move favorably and quickly on this legislation and begin to rejuvenate our dying fishing industry and our rapidly disappearing fishery resources—or we can sit idly by and let them vanish while the Law of the Sea Conference talks on. We must act now to protect our precious but dwindling fishery resources. Thus, I urge all my colleagues to vote in favor of H.R. 200.

Mr. RUPPE. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Chairman, I deeply regret that the administration has been unable to support the enactment of H.R. 200. The Departments of State and Defense have made their views known to Republican Members of the House at the conference meeting this morning, and all Members of the House have been furnished extensive material setting forth the administration's views. I must respectfully disassociate myself from the position taken by the administration. I strongly support the enactment of H.R. 200, and I urge all of my colleagues in the House to support this vitally needed legislation.

The opposition that has been expressed by representatives of the administration centers around the impact which they perceive it will have on the Law of the Sea Conference, which resumes in March of 1976 in New York. In addition to the adverse impact they envision, the representatives of the administration also oppose this legislation as essentially unnecessary. They assert that coastal State jurisdiction over fishery resources is virtually assured in whatever treaty emerges from the Law of the Sea Conference, and that we, therefore, need not adopt this legislation. I will discuss this latter issue of the need for and timing of this legislation first, and then turn to the question of adverse impact upon the Conference.

It is quite true that the so-called single negotiating text, which was promulgated on the final day of the last session of the Conference in Geneva, contains most of the basic points the United States has been striving for with respect to fisheries. I say "most" because one important segment of our fishing industry is not protected by the single negotiating text; namely, our tuna industry. In that regard, by the way, former Ambassador Thomas Clingan, our chief fisheries negotiator at the last session of the Law of the Sea Conference, stated before our committee upon his return, and I quote:

> The tuna article is disappointing. The fisheries management and allocation aspect of this article are not good.

With all fairness to Ambassador Clingan, he did, however, indicate that what was in the text was better than nothing. The Law of the Sea negotiations, therefore, have not reached agreement in support of all the basic elements of the U.S. negotiating position, and there is indeed no guarantee that this will ever occur.

The articles set forth in the so-called single negotiating text are not locked in concrete. As Ambassador Clingan stated to our committee, and I quote again:

> The Single Negotiating Text must be viewed as a procedural device providing the basis for further negotiations, and it is not a negotiated text or an agreed compromise. It does not affect any nation's national position.

Nothing in the so-called single negotiating text can be taken as a final action. Provisions that we like in the text may be taken out as easily as provisions may be added. All issues before the Law of the Sea Conference remain open. It is erroneous, therefore, to assert, as representatives of the State Department have done, that we have substantially achieved our objectives in the fisheries area. We cannot make any hard and fast predictions as to what the final treaty will contain with respect to fisheries. It may contain all of the provisions we seek—it may contain none.

Even if the single negotiating text could be taken as the final word, except in the area of tuna, and even if we can assume that the tuna issue will be resolved to our satisfaction, there remains the question of timing. When will we achieve success in the Law of the Sea Conference? When will a treaty emerge? And, finally, when will that treaty enter into force? It is interesting that, contrary to the statements we have heard in the last few days from administration witnesses, Mr. Moore, Chairman of the National Security Council Inter-Agency Task Force on the Law of the Sea, who appeared before the Republican Conference this morning in opposition to H.R. 200, also appeared before the Merchant Marine and Fisheries Committee following his return from Geneva in May and sang an entirely different song. He stated at that time, and I quote:

> In previous testimony before this committee, I have indicated that there were reasonable prospects of adhering to the General Assembly schedule and completing the record of the Conference during 1975. Indeed, this timing has been a cornerstone of our interim policy. I regret to report to you that I was wrong, and that this schedule was overly optimistic. It is now clear that the negotiations cannot be completed before mid-1976 at the earliest, and at this time it is not clear whether or not a treaty can be completed during 1976.

Mr. Moore continued by stating that in light of this failure to maintain the timetable proposed by the General Assembly, the administration was going to conduct a thorough reevaluation of its interim policy in order to insure a necessary balance between our broad national interests as he conceived them, and the more immediate need to protect our coastal fisheries and to secure access to the raw materials of the seabed. He stated that members of the administration would be consulting closely with Congress as this evaluation progressed, and that they would be reporting back to the Congress soon after the August recess, and I quote:

> Not only our recommendations concerning interim legislation but also a full and frank evaluation of the factors that we have weighed.

If this reevaluation ever did take place, I have not been advised about it. Certainly no effort was made to consult with me, or to my knowledge to consult with any members of the Merchant Marine Committee. To the contrary, during the markup in the subcommittee and the full committee on H.R. 200, representatives of the various executive agencies were under a gag rule and could not discuss even the most mechanical details of the bill with us. There has been no consultation—there has been no reevaluation—there has been no effort during these months to attempt to formulate a policy to protect our vital fisheries interests pending the outcome of the Law of the Sea Conference at some future date. All we are told now is that through intensive bilateral negotiations, the State Department will make an effort to fur-

ther reduce foreign fishing pressures off our shores. Of course, we have had bilateral negotiations for the past decade, and it is under the umbrella of these bilateral negotiations that our fisheries have been decimated.

The candid testimony of Mr. Moore before our committee this year certainly convinces me that no one can predict when the Law of the Sea Conference will complete its work. Perhaps it is reasonable to assume that this will occur in 1977. I certainly hope so. If it does, then we may be able to anticipate the ratification of a treaty by 1980 on a realistic basis. But the fisheries cannot withstand the pressure for 4 more years. The Soviet Union has already destroyed our haddock and yellowtail flounder stocks, the most valuable fisheries off the coast of the United States. The Japanese are taking huge quantities of pollock off of Alaska and are resisting our efforts to achieve even minimal inspection and enforcement provisions.

The much-touted success of the U.S. negotiating team at the recent ICNAF meeting at Montreal does not impress me. The fact of the matter is that while the Soviet Union agreed to a substantial reduction in its tonnage, the Soviet Union is now beginning to feel the impact of its own ill-conceived policies of the past decade. There simply are not enough fish left in the ICNAF area to support the kind of fishing the Russians were conducting in years past. Now that they have decimated these resources, it is a relatively easy matter for them to agree to reduce their fishing pressure in the future. It would be uneconomical for them to continue to send the same number of boats to Georges Bank next year that they sent last year in the face of a greatly diminished resource. And, of course, part of the Russians' willingness to cooperate at the Montreal ICNAF meeting was undoubtedly the result of their anticipation of our 200-mile zone. Frankly, they are hoping that the United States will be so impressed with their sudden enlightenment that we will give them favorable consideration when it comes time to license foreign vessels under H.R. 200.

I respectfully urge my colleagues not to be taken in by the propaganda with which we have been deluged by the State Department in the past week. Listen rather to the words they spoke to us during a calmer period when they were honestly evaluating our chances for success at the Law of the Sea Conference. Again I quote from John Moore, Chairman of the Law of the Sea Task Force:

> Our disappointment at the pace of the negotiations is genuine and requires a careful rethinking of our interim policy.

Turning now to the impact of our action today on the Law of the Sea Conference, I must say at the outset I am appalled at the lack of intellectual content in the arguments expressed by the State Department. The infantile simplicity with which they purport to view the Conference I am sure does not reflect their true sentiments. But it does tend to reflect their view of the intellectual capacity of the Congress. Apparently, those who have been lobbying us for the past week do not believe that we are capable of analyzing the complex issues and political pressures that exist in the Conference, and can only grasp the most simple-minded notions of what the real world is all about. It is urged upon us that enactment of H.R. 200 would disrupt the Conference to such an extent that the chances for a successful Law of the Sea treaty would, at best, be substantially diminished, and at worst the Conference would never recover from the shock. In effect, the rest of the world would simply pick up their marbles and go home. This extremely simplistic view of the complex negotiations taking place in the Law of the Sea Conference is not only an insult to our intelligence but is not supported by the facts.

Coastal State jurisdiction over fishery resources, the subject of H.R. 200, is but one of the many complex issues being debated in the Law of the Sea Conference. While a great deal of work has been done with respect to coastal State control over fishery resources, as well as the mineral deposits found within 200 miles of shore within the concept of an economic zone, other very basic issues are only at the threshold stage of serious debate. These include the nature and powers of the international regime which will regulate seabed mining beyond the economic zone, the right of transit through and over international straits, scientific research, and marine pollution.

Undoubtedly, the most controversial of these issues is the question of the regime for the seabeds. It was, after all, the prospect of wealth derived from mining the seabed for the benefit of developing nations that triggered this third Law of the Sea Conference. The resolution which spawned this effort in the late 1960's spoke in terms of the mineral resources of the oceans beyond national jurisdiction as the common heritage of mankind. While the full potential of the seabeds as a source of mineral wealth will not be realized for decades, the rules and regulations governing access to mineral deposits on the seabed is the crux of the Law of the Sea Conference. It is an issue which the developing nations of the world, which dominate the Law of the Sea Conference in terms of numerical strength, have committed themselves to settling on terms which will insure that they and not the industrialized nations of the world will be the chief beneficiaries.

In order to accept the State Department's theory that enactment of H.R. 200 will disrupt the Law of the Sea Conference, we must assume that the developing nations of the world are prepared to abandon their quest for an international treaty establishing the regime for the deep seabeds. There is simply no evidence whatsoever to support that assumption. All the evidence is to the contrary. The general consensus for a 200-mile economic zone virtually guarantees to the developing nations full control of their coastal resources. Without a treaty, however, the developing nations have no hope of deriving any ultimate benefit from the rapidly increasing technology of seabed mining. It is the developed nations of the world, and principally the United States, which would benefit most if indeed the rest of the world picked up their marbles and went home without a new Law of the Sea treaty. American corporations and those of Japan and a few other countries under national legislation are prepared to begin commercial seabed mining almost immediately. Lacking the hundreds of millions of dollars needed to begin seabed mining, the developing nations simply have no chance whatsoever to share in this wealth without a treaty that in some fashion earmarks a portion of seabed revenues for their benefit. The United States has committed itself to such a treaty, provided it contains reasonable terms for commercial participation in seabed mining.

In essence, what I am saying is that the developing nations have everything to gain and very little to lose by persevering in the Law of the Sea Conference. In terms of access to the mineral resources of the seabed, it is, I am afraid, the United States that ultimately stands to lose in this negotiating process. It is absurd to suggest that the majority of nations will walk out of the Law of the Sea Conference because the United States has chosen to protect its coastal and other fishery resources.

What are the prospects of securing adoption of a treaty covering a seabed regime which the United States can ratify? I suggest that the prospect is not good. While I have no doubt that, given their overwhelming numerical superiority, the developing nations could ram a treaty through the Conference next March, the drafting of a treaty which the United States and the other developed nations of the world can sign and ratify is a different matter altogether.

I already have pointed out the fact that the seabed and the nature of the international regime to control ocean mining is a critical issue in these deliberations. It is also an issue upon which the negotiating positions of the United States and the developing nations are diametrically opposed. Our position essentially is that the seabed regime should rely basically on private enterprise to explore and exploit the mineral resources of the oceans. A portion of the wealth derived from this effort will be dedicated to international development activities for the benefit of the third world. The developing nations, on the other hand, not for the same reasons in all cases, seek the establishment of an international regime under which an international authority which they control will actively engage in seabed mining. Presumably, the United States and other developed nations would furnish the money. Private enterprise might or might not be permitted to engage in mining, but in any event only as a licensee of this international authority. The likelihood that these opposing philosophies can be reconciled in one more session of the Law of the Sea Conference next March is small indeed, assuming that they can be reconciled at all.

Our principal negotiator at the Law of the Sea Conference with respect to the

major question of the regime for the deep seabed is Mr. Lee S. Ratiner of the Department of the Interior. In appearing before the Merchant Marine and Fisheries Committee following the last session of the Conference, he furnished us the following appraisal, and I quote:

In my view, a major stumbling block in these negotiations is the desire on the part of most developing countries to use the deep seabed as a concrete opportunity to implement creation of a new economic order, which involves increased use of the collective power and control over the sources, quantity and production and prices of raw materials in contradistinction to the quest of the industrialized countries for new, secure sources of supplies of raw materials. For this reason, we have found progress in Committee One particularly difficult to achieve.

In addition, he stated that despite the efforts of some developing nations to be responsive to the concerns of industrialized countries little progress was made in bridging the gap among nations on the basic aspects of the system under which ocean mining will occur.

Further, Ambassador John R. Stevenson, the head of the U.S. Law of the Sea delegation, in his final press conference in Geneva on May 9, 1975, stated:

Basic compromises on this most difficult of issues have eluded all of us.

He was referring, of course, to the fundamental issue of the regime for the deep seabed.

In order for the United States to achieve a Law of the Sea treaty next year, we would have to make such fundamental concessions that I seriously doubt the treaty would ever be ratified. The United States delegations to the Law of the Sea Conference have consistently stated on the record that the United States will not sign a treaty that does not satisfy our basic objectives in terms of our national security and our resource interests. Taking those statements at face value, as I think we must, I cannot see how a treaty can possibly emerge that we can accept unless the developing nations utterly abandon their position. The more realistic appraisal of the timing of the Law of the Sea Conference is that several more very difficult negotiating sessions lie ahead before a consensus on all issues will be achieved. We cannot afford to wait to take action to protect our coastal fisheries.

Much has been made of the fact that the last session of the Law of the Sea Conference produced what is called a single negotiating text. We are given to believe that this text is virtually a final treaty. The facts are to the contrary. This text was developed by a small group of experts and was presented to the Conference on the last day of the session. It is simply the opinion of an informal group as to where they think the Conference is headed. It will undoubtedly be used in the next session of the Law of the Sea Conference as the point of departure for further debate. It does not set forth the provisions for a seabed regime which the United States can support, nor does it sufficiently guarantee our security interests. The introduction of the so-called single negotiating text was equivalent to dropping a bill in the hopper. A great deal of time may have gone into the drafting of the bill, but the entire process of committee deliberations and markup yet remains.

In summary, Mr. Chairman, enactment of this legislation will not disrupt the Law of the Sea Conference. There are simply too many other vital issues of concern to the rest of the world as well as the United States. The Conference will go on, I am afraid, for some time, and time is of the essence. In view of the complex issues that are being negotiated in the Law of the Sea Conference, it is inconceivable that these negotiations will be broken off by the enactment of H.R. 200. I have no doubt that a good deal of rhetoric will be wasted denouncing the United States, but this seems to happen virtually at every United Nations meeting these days. I am sure our negotiators will have enough intestinal fortitude to withstand that, but beyond the rhetoric I am confident negotiations will continue, and the delegates to the Conference will know without a doubt that the United States means business—that we will not allow our basic interests to be used as bargaining chips while the developing nations attempt to secure their so-called new economic order.

Mr. Chairman, I urge my colleagues on both sides of the aisle to support this vital legislation. It is a progressive bill—it is a conservation bill—it is a bill which will guarantee the availability of our vital fishery resources for the benefit of the United States and the world.

Mrs. SULLIVAN. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. LEGGETT), the chairman of the subcommittee on Merchant Marine and Fisheries.

Mr. LEGGETT. Mr. Chairman, I have a 25-page speech, but I am not going to subject the Members to hearing it. It will be printed in the RECORD.

Mr. Chairman, we have gone through this a number of times. This is one of the more formidable pieces of legislation that this Congress will enact, and the President is going to sign in this session of the Congress. We are going to change only the fishing jurisdiction of the United States. We are not changing the territorial sea limits. We are not affecting the Department of Defense, we are not affecting straits, we are not affecting the International Law of the Sea, but we are giving them leadership. We are not acting unilaterally because in this 200-mile bill we are joining now a community of some 40 nations that have extended their fishing boundaries beyond 12 miles. There are unfortunately a number of countries that have claimed a 200-mile territorial sea which would preclude navigation and the right of innocent passage by a number of nations. We are alarmed by this. We will give leadership by the passage of this legislation to the folks in the United Nations and the folks on the Law of the Sea. We have drawn back from the Law of the Sea, since we passed the rule in this matter just a few days ago and unfortunately we have come to the conclusion, as has the State Department, as has the National Marine Fishery Services, as has the Department of Defense, that we are not going to get much out of the Law of the Sea. We are going to get firm on the Law of the Sea. And as indicated before, the Law of the Sea is currently dominated by a very large number of "one nation, one vote" States who do not have large areas of ocean and who are trying to gain something for nothing.

We think that by being firm in this legislation and giving some leadership that we can set the pattern for future consolidation and action on the Law of the Sea. They have a single text there now which is not going to meet our objections. I will not go into that now.

A number of people are concerned with respect to this bill that we may be selling out the tuna industry.

I represent a part of the State of California and tuna is a big interest in our State. Tuna and shrimp comprise 23 percent of the fishing groups and we are certainly not going to sell this industry down the river. But we have to face the fact that we have the law of the jungle in the law of the sea with regard to tuna on the high seas and we have to give some leadership in this area.

In other words, this bill excludes tuna as a highly migratory species from the coverage of this legislation and all other highly migratory species and it will prevent an extended jurisdiction in that area. Second, we give tuna a bonus because we include in the bill a reimbursement provision for some items where payment is made in lieu of seizure and forfeiture and compensation cannot be obtained. We amend that to provide for compensation.

At the present time there is no automatic bailout. We have provisions in this bill that provide for procedures against nations who have not recognized American interests in fishing around the world.

We provide that where we do agree to a fishing license for other countries, part of the funds that are in this bill from such license fees will be earmarked to pay for American licenses around the world. Ten percent of those fees so collected can be used for that purpose. This is a matter of rather urgent concern. We have over 800 foreign boats that are currently operating off our shores. Fifteen years ago the foreign operations off of our coast were but a few. At the present time the foreigners are taking more fish off of our American coast than Americans by a magnitude of a large percentage. So we have to do something about this. The solution is in this legislation.

Some folks have raised the question as to States' rights, and perhaps the provision that we have in this bill intends to occupy the 3-mile territorial area of the States. That is not the case. I devote about 6 pages of my prepared remarks to that situation, and I believe I pretty well lay out the intent of this bill and the legislative history, and spell out the response to the statement of the very distinguished Fish and Game Director of Florida, Mr. Harmon Shields. We lay out, I think, an adequate response where we only intend to occupy the field in a Federal way. Where we have an impasse, the impasse has to be a rarity because the seven fishery councils that are

established in this legislation are heavily dominated by State interests.

It is also the intention of our subcommittee and the intention of our full committee to exercise rather precise oversight over this legislation, and we are not going to let it get out of control. We do intend to maintain our existing relationships with the States' control.

The bill will not go into effect until next July 1. There is going to be a get-ready period of time. We are going to have to beef up our Coast Guard; we are going to have to beef up our National Marine Fisheries Service. The delay in implementation is for that purpose and also to see if the law of the sea negotiations which are going to take place in New York next year can get off the ground.

John Norton Moore, the current chief negotiator, does not believe that they can. I do not believe that they can, and I am not going to take any more time at this time.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from California.

Mr. McCLOSKEY. I thank the gentleman for yielding.

I have discussed this before with the chairman of my subcommittee. I wonder if the chairman could comment on whether or not by taking this action by an act of Congress we are not violating the treaty, the Convention of 1958 on Fisheries which we ratified on April 12, 1961. Does this action, if enacted into law, not conflict with the Convention on Fishing and Conservation of Living Resources of the Seas done at Geneva on April 29, 1958?

Mr. LEGGETT. The answer to that is no. The committee has had prepared by the Library of Congress a rather elaborate brief on this point. The lawyer who prepared the document does indicate that there is what is called an arguable point, but he comes down on the side of the fact that this is within the treaty. We can get into a rather elaborate description as to whether it is within or without. The practical matter is the treaty does not cover the fishery zone question and presumes that we are talking about various kinds of coastal species, et cetera, where we have bilaterals.

But where we have an expanded zone, it is the position of the lawyers that the treaty does not preclude the establishment of an expanded zone.

Mr. McCLOSKEY. If the gentleman will yield further, I have not seen this legal memorandum prepared by a lawyer of the Library of Congress, and I have not seen any opinion from the counsel of the Merchant Marine Committee on this subject. I have in front of me the Convention on Fisheries which seems to say that if any nation objects to nations fishing outside its 12-mile zone, or has a practice that is not conserving the fish outside the 12-mile zone, that the signatories to that treaty are bound to take up the dispute with a commission of 5 nations. What is there in this bill that would then be consistent with that treaty which we have signed, and which is part of the law of the land, which would require us to submit any dispute outside of the 12 miles to this 5-member commission?

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Massachusetts.

Mr. STUDDS. I thank the gentleman for yielding.

I wonder if the gentleman from California can point to us in the text of that convention where there is any reference to a 12-mile zone.

Mr. McCLOSKEY. It was international law at the time. As I recall this Nation claimed that the *Pueblo* was within its rights when it sailed within 12 miles of the North Korean coast.

Mr. STUDDS. I challenge the gentleman to point to anything in this or any other law which would point to a 12-mile limit which is recognized in international law. There is no precisely clear international law at the moment. The limits range from 10 to 12 miles to 200 miles and the situation is entirely unclear except if one wants to look, as lawyers tend to look, at what is the emerging trend which seems to point to such a distance.

Mr. McCLOSKEY. We have letters from Louis B. Sohn of the Columbia Law School and from Hamilton Fish, professor of international law and diplomacy, Louis Henken, and William Bishop, Jr. of the Law School of the University of Michigan, and Edwin Dickinson, another university professor of international law, and all of them state that in their opinion this would be clearly in violation of international law.

What is the legal opinion to the contrary?

Mr. STUDDS. If the gentleman will yield further, I would really give challenge to the gentleman to cite the law.

Mr. McCLOSKEY. As I understand the law, until 1945 we urged other nations to accept a 3-mile territorial limit. In that year President Truman proclaimed a 12-mile fishery limit. The only nations today which have claimed the fishing jurisdiction out to 200 miles are not signatories to this 1958 Convention of the High Seas. Is that not correct?

Mr. STUDDS. I beg to differ with the gentleman. The Truman declaration pertained not to fisheries and fishery zones but to resources of the Intercontinental Shelf. Under President Truman in 1945 this Nation asserted its jurisdiction to resources under the shelf. In 1966 under the unilateral legislative action by this Congress the United States for the first time extended its fisheries jurisdiction to 12 miles.

Mr. McCLOSKEY. That has been accepted as international law as of this time; has it not?

Mr. STUDDS. It has not. It depends on the meaning. Some nations have, but there are nations which claim widely diverging limits.

Mr. LEGGETT. Mr. Chairman, I would like to recapture my time.

I would respond to the gentlemen in this way. In the analysis I am going to put in the RECORD there will be a complete and rather extensive analysis covering from 35 to 40 pages with enclosures relating to a number of international cases and this is from Mr. Sayle from the Library of Congress and he says:

> There would seem to be no inconsistency between Title I of H.R. 200 and the 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas [17 U.S.T. 138]. Technically, the validity of Title I, which establishes an exclusive fishery zone, should not be measured against the Geneva Fisheries Convention, which is concerned with the right of a coastal State to take unilateral conservation measures. This distinction is apparent from the following explanation by Bishop:
>
> It must, of course, be recognized that the [Geneva Fisheries Convention] does not deal with the situation in which the coastal State wants not merely to regulate the fishery but also to reserve a high seas fishery exclusively for its own nationals. * * *

Mr. EMERY. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Maine.

Mr. EMERY. Mr. Chairman, is it not also true that the United States is the only fishing nation that has ratified the fishing agreement to which we have referred? Is it not also true other nations such as Japan and the Soviet Union and East Germany and Poland that conduct major fishing expeditions off the American coast have not ratified this treaty and, therefore, do not recognize its provisions?

Mr. LEGGETT. I believe the gentleman is correct.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Minnesota.

Mr. FRASER. Mr. Chairman, in connection with this discussion of whether this bill would be in violation of international law and treaty agreements, the gentleman from California cited international law scholars who, as I understood, said this would violate international law and so on. Does the gentleman have a specific written opinion from a scholar of known repute who would defend his view? Is it in the committee report, for example?

Mr. LEGGETT. We have included this complete analysis in my report, because we received it after the report was published; but I am satisfied that the analysis we have here is the best available.

Mr. FRASER. Does the analysis of the gentleman claim that we have the right unilaterally to assert whatever fishing limit we want to the exclusion of other nations?

Mr. LEGGETT. Well, they point out, very frankly, that there are two schools of thought. There is a school of thought that they cannot do it. There is also the school of thought that they can. They have gone on to explain why they can or why they cannot; but what they state very simply is that the law is extremely unsettled, considering the fact that the Geneva Convention was limited to, considering the fact of long standing a large number of nations have claimed a 50-mile, a 200-mile fishing limit, a 200-mile territorial sea, and so forth, considering it says that the only case that came down in this area was the *Icelandic* case. The *Icelandic* case was concerned with Great Britain's fishing rights off the coast of Iceland for virtually tens of decades. They say this *Icelandic* case is clearly different than anything we refer to. We

do not intend to confuse fishing rights with long-standing limitations.

Mr. FRASER. But the bill makes a claim totally at the will of the U.S. Government and there is no existing right of other nations which is recognized.

The gentleman referred to the *Iceland* case. I am reading from the court decision, which says:

> The provisions of the Icelandic regulations of 14 July 1972 and the manner of their implementation disregard the fishing rights of the applicant. Iceland's unilateral action thus constitutes an infringement of the principle enshrined in article 2 of the 1958 Geneva Convention on the high seas . . .

This is a convention which we have signed and ratified. It is a treaty obligation the United States has. Does the gentleman claim we can make a unilateral claim of a new limit and not be in violation of the 1958 treaties?

Mr. LEGGETT. The answer is that the Icelandic Treaty has been delineated and interpreted by our legal scholars as only referring to that situation which is before the court immediately for dicta, which may represent the statement of a particular distinguished international jurist; but the facts of the case are really related to the situation where one country had been precluded by the unilateral action of a State from exercising an inherent right to fish, and not under a program as we propose to do in this act, but under a mutual reciprocity which we do not have.

Mr. Chairman, H.R. 200 represents many, many hours, days, weeks, months, and years of serious study by our committee. It has been reported only after the problems and issues it addresses have been considered in increasing degree in three Congresses. Our committee last year held 10 days of field hearings in 10 States on 3 coasts seeking and evaluating the testimony of concerned fishermen, industry representatives, conservation organizations, and other appropriate citizens and interested groups. The views and counsel of executive branch personnel in the National Marine Fisheries Service, the Coast Guard, the Department of State, the Department of Defense, the National Security Council Interagency Task Force on the Law of the Sea were also sought and considered most carefully. Our committee has been represented by members and staff at the Law of the Sea Conference negotiations, first at Caracas last summer, and at Geneva this past spring. I personally attended the Geneva session to follow closely and directly the progress—or lack thereof—of the Conference and to speak with many of the principal participants.

This past March, my Subcommittee on Fisheries and Wildlife Conservation and the Environment held an additional 9 days of hearings here in Washington, and only after this additional intelligence and testimony were duly weighed did we commence markup of the bill which ultimately was reported out of the full committee on August 20.

Mr. Chairman, the information developed at the committee's hearings indicated that the Atlantic coast fisheries in the New England area were in the greatest trouble by far as a result of foreign fishing activities. For example, from 1952 to 1960, the U.S. catch from New England waters averaged around 700 million pounds per year—roughly 99 percent of the catch for that area. Then came the steady intrusion of Russian, Polish, German, and other foreign fishing fleets, until today vessels from more than 20 other nations are actively taking fish in these waters. By 1970, the Russian fleet alone brought in 836 million pounds, about 50 percent more than the catch averaged in the 1952–60 period caught by the United States, while the United States took only half that amount or 25 percent of the total catch. Consequently, in only 10 years' time the U.S. catch in this area has been reduced from 99 to 25 percent and this situation is likely to deteriorate unless remedial action of some sort is taken soon.

The testimony also indicated that our gulf coast fisheries were in a state of decline and depression as well. However, this situation was primarily due to the increase in costs of fuel and operation and maintenance expenses, and not due to foreign fishing activities in the area. However, the fear was expressed that, given the declining state of the New England fisheries, it is only a matter of time before the foreigners shift their attention to the more plentiful resources of the gulf.

There has also been a severe decline in U.S. fishery production in the Northwest Pacific and the State of Alaska, where fish stocks are threatened by huge foreign trawlers and factory ships, mainly from Japan and Russia. For example, we have witnessed the California sardine catch decline from 564,000 pounds during the period of 1951–55 to only 1,000 pounds during the period from 1971 to 1973. For all practical purposes, this fishery has been eliminated and many others will follow unless prompt action is taken, such as that called for by H.R. 200.

Mr. Chairman, this bill seeks to halt the increasingly severe and threatening depletion of the fisheries resources of concern, interest, and custodial responsibility of the United States, not only for the benefit of the American people—present and future—but for a world populace whose protein and other nutrition needs may be increasingly dependent on the biological bounty of the oceans, a bounty of enormous potential if properly conserved and managed.

Mr. Chairman, the highlights of this bill—which would regulate all species of fish except highly migratory species, such as tuna, which are to be regulated by international fishery agreements—are as follows:

First. Extension of the U.S. exclusive fishery zone from 12 to 200 miles beyond the base line from which the territorial sea is determined, effective July 1, 1976.

Second. A comprehensive management program governing U.S. and foreign fishermen within the zone.

Third. Creation of seven regional marine fisheries councils to assist the Secretary of Commerce in developing regional management plans and regulations.

Fourth. Authorization for the charging of reasonable Federal license fees for all those fishing within the zone—including American fishermen—the proceeds of which will be earmarked for stock assessment and research, except that a portion of such fees imposed on foreign fishermen could be used to reimburse U.S. fishermen for license fees imposed on them for fishing off the coast of foreign nations.

Fifth. Priority rights for U.S. fishermen within the zone, with excess stocks to be shared with foreign nations licensed by the Federal Government.

Sixth. Submission to Congress, for possible disapproval within 60 days of signing, of all bilateral fishing agreements with foreign nations permitting fishing within the 200-mile zone or for anadromous fish beyond the zone if subject to a management plan.

Seventh. The banning of seafood imports from foreign nations which refuse to grant equitable access, consistent with reasonable management and conservation practices, to U.S. fishermen with respect to waters thev have previously fished.

Eighth. Imposition of penalties against all violators of the provisions of the act.

In our consideration of this legislation and of the issues intertwined therewith, we repeatedly found three areas of principal concern to the many parties from whom we heard. First, while most domestic fishermen favored mightily the protection of our fishery resources which an extended fishing zone would bring, some distant water American fishermen—principally the California-based tuna industry and the gulf coast shrimpers—were opposed to the extension on the grounds that our action in that respect would elicit retaliatory action by nations off whose waters our men now take tuna and shrimp. A second area of concern was the ever-present arena of Federal-State relations and the resolutions of possible conflicts of management jurisdiction and authority concerning fish stocks presently managed by the States—that is, out to 3 miles.

The third area of significant conflict concerns the principles of international ocean law, the ongoing Law of the Sea Conference negotiations aimed at achieving new, modern, and more sophisticated international agreements relating to maritime law, and the alleged positive and negative impacts which unilateral action by the United States as represented by H.R. 200 might have on these U.N. Law of the Sea meetings and negotiations. I would like to comment on our reaction to each of these areas and indicate how the legislation before you addresses each issue.

With respect to the issue of the rights of our own distant water fishermen, if I may be permitted a personal note, I can assure you that with the interests of our California tuna fishermen at heart, I was very sensitive to this issue and its implications. I had my responsibilities to my constituents and my colleagues in the California delegation, as a single Congressman, and I had my responsibilities to the larger society in my capacity as subcommittee chairman. I do believe the provisions we have in this bill are reasonable and fair for all concerned. We are seeking to protect the interests of our

distant water fishermen who may be victims of other nations' establishment of 200-mile zones in three significant ways.

First, section 203 of the bill requires the Secretary of State, within 90 days of the bill's enactment, to commence negotiations with each foreign nation off whose shores American fishermen currently take significant harvests of fish so as to assure continued participation by American fishermen in the harvest of those fish stocks which they have traditionally fished. If the Secretary finds an unwillingness to negotiate in good faith, an unwillingness to permit continued American participation in such fisheries, or violation of any agreement in existence or which may be reached in furtherance of these American objectives, then the Secretary must certify this fact to the Secretary of the Treasury, who would then be required to act to prohibit the importation into the United States of any seafood product from such nation. Similar triggering of this economic sanction would occur as well where a U.S. vessel is illegally seized by a foreign country off whose shores American fishermen have previously fished.

Second, H.R. 200 would amend the Fishermen's Protective Act to make it clear that the reimbursed charges for which American fishermen will be reimbursed when their vessels are seized by foreign governments for fishing within another nation's claimed fisheries zone would include any levy, however characterized or computed, which is imposed in addition to any fine, license fee, or registration fee. This charge was necessary because when Ecuador seized a number of American tuna boats last winter for violation of that country's claimed fishing zone, she required the vessels' owners to pay the monetary value of the fish on board in lieu of having their fish confiscated. Present law allows for compensation of the loss of confiscated fish, but not for the monetary value paid in lieu thereof.

Thus, the bill's provision to broaden the coverage of reimbursement situations will further protect our distant water fishermen from this form of loss when they are seized in waters the United States considers high seas. Third, section 306 of H.R. 200 would provide for the assessment of license fees on foreign fishermen fishing within American-claimed waters; 10 percent of such fees would be required to be deposited in a separate account to reimburse American fishermen for license fees they may have to purchase in order to fish off another country's shores. This provision of the bill also offers additional protection to the distant water fishermen who have legitimate concerns about their continued welfare as various nations reassess the limits of their fisheries zones.

The second major area of strong concern was that of Federal against States rights with respect to jurisdictions and management authorities. Through the composition of the various regional fisheries councils—which allow for strong private and State participation—the States will have direct impact on the development of the marine fishery management plans which the Secretary of Commerce will then implement. Some States will have representation on more than one regional council. The bill provides for the maximum amount of professional and scientific involvement in the preparation and development of management plans and strategies; it is the expectation of our committee that there will be very little and infrequent conflict between States and the Federal Government over management of the various fish stocks because of the high professional caliber of the fisheries biologists who will be involved, whether the payroll they be on be Federal or State.

Section 309 of the bill makes it clear that nothing in the act extends or diminishes the jurisdiction of any State seaward of the coastline of the United States except in special and restricted instances when the Federal Government could assert regulation of certain fish stocks in the territorial sea. This possible Federal override of State authority within the territorial sea is contemplated only in exceptional cases; for example, where the fish range readily across one or more State borders and integrated Federal regulation and management would be superior to inconsistent and perhaps conflicting regulations of adjacent States with respect to the same species.

However, before the Federal Government could assert jurisdiction in the waters of any State, the Secretary would be required to find that the State's action—or the State's failure to take action—will substantially and adversely affect the carrying out of any Federal management plan that may have been developed with respect to a particular fishery.

Perhaps the most serious, but surely the most outspoken and consistent, opposition to this bill has come from the State Department. It has been the position of that Department that unilateral action by the United Sates in establishing an extended fisheries zone would jeopardize the ongoing Law of the Sea negotiations which are the best hope for an effective solution to complex international maritime issues, that retaliatory action by some nations would work to the immediate disadvantage of our own distant water fishermen, that some nations might take less measured and reasonable action than we are contemplating if we do act unilaterally, and that pending ultimate achievement of Law of the Sea goals, continued emphasis on negotiated appropriate bilateral and multilateral fisheries agreements can buy the additional resource protection and domestic fishermen protection which they concede are badly needed.

Mr. Chairman, I and other members of our committee have been unpersuaded by the arguments of the State Department for a number of reasons. Let me go over the most compelling ones as I see it:

The Law of the Sea Conference is a worthy, necessary, and desirable effort; I truly hope it is ultimately successful. But it is very likely years away from conclusion when one considers we have not yet achieved agreement on a draft treaty, let alone obtained the requisite number of signatures, the sequential ratifications and the various individual legislative actions necessary to implement any resulting international law agreements. Two years ago, we heard Ambassador Stevenson and Mr. John Norton Moore, chairman of the National Security Council Interagency Task Force on the Law of the Sea—our principal representatives at the Law of the Sea negotions—urge Congress to defer its consideration of unilateral action on these fisheries issues until after the Caracas meetings because they felt optimistic real progress would be made. It was not.

Again, this year, we were told to be patient a little longer, for what Caracas failed to do, Geneva would surely achieve. But it did not. Now, the State Department line is—wait till next year, in New York. Mr. Chairman, with all due respect to Secretary Kissinger, Ambassador Stevenson, and Mr. Moore, to their good intentions and the difficult complexities involved, it is naive to expect us or anyone to believe that we are closer than 5 to 8 years from ultimate implementation of whatever complex international agreements may finally come from the Law of the Sea Conference. This is time that is absolutely, unalterably, and most emphatically of critical importance to a number of invaluable fish stocks now depleted or facing imminent depletion. We cannot afford not to act right away.

The record of the past 20 years, in the case of a wide number of multilateral and bilateral fishing agreements, just does not support the optimism of the State Department that more of them nor renegotiation of existing ones will provide the answers to the overfishing and other fish stock management problems which urgently cry for attention. H.R. 200 also calls for more bilateral and multilateral negotiations, but from a position of strength after we have acted to assure we will still have our fish resources left to negotiate over. Even ICNAF—the International Convention on North Atlantic Fisheries—by some accounts the most sophisticated and successful of all of our fisheries agreements, has been singularly unsuccessful in protecting a number of species such as the haddock from extreme overfishing and even commercial extinction. I assure you any Boston, New Bedford, and Point Judith fisherman can so affirm.

The argument that unilateral American action will torpedo sensitive Law of the Sea negotiations and unleash a flood of other nations' unilateral acts is singularly unconvincing. First of all, H.R. 200 is most carefully constrained to deal only with the fish resources of the oceans, and does not interfere with negotiations about straits, islands, mineral resources, defense requirements, and so forth. Even the highly migratory species of the open seas are excluded from provisions of this bill.

Second, this measure is clearly interim in nature with respect to the provision in the bill that provides that any Law of the Sea agreement that may ultimately be enacted by the international community—including the United States—would then supersede this legislation.

Finally, the provisions of this bill insofar as extended fisheries jurisdiction is

concerned are completely consonant with the emerging consensus at the Law of the Sea meetings, and with the publicly expressed position the State Department has indicated it could accept and to which it expects to ultimately agree. Even without U.S. action, other nations have extended their fishing zones unilaterally and more continue to do so. We may be accused of jumping on a bandwagon, but not of starting one.

In short, Mr. Chairman, I think we have a very responsible bill. It provides for the immediate needed action and it is responsive to our other national interests, especially with respect to the Law of the Sea negotiations and our international fishing and conservation responsibilities.

It has the strong support in general of all of our coastal fishermen, sportsmen, and conservation groups, and it has been cosponsored by 148 Members of the House.

Mr. Chairman, I would like to point out that our committee is not alone in its thinking that the time for unilateral action has come. Just this week we received the fourth annual report of the President's own National Advisory Committee on Oceans and Atmosphere which now shares our view. This august body of experts in its previous three reports strongly advocated caution and reliance on the Law of the Sea Conference, but let me quote from their most recent pronouncement:

> NACOA, NOTING that the Law of the Sea Conference has been unable to come to agreement after a protracted period of preparation and negotiation, and FINDING that pressure on living resources and the marine environment off our coasts requires urgent action to bring their use under positive rational management, recommends that:
>
> Legislation be enacted asserting United States jurisdiction over resources within a zone, out to 200 miles off the United States coast. . . .

The President's committee goes on to more specific recommendations for the management of fisheries within the zone which largely parallel the provisions of H.R. 200.

Our committee and the President's committee have taken different routes but we have reached the same conclusion: The time for action is now.

Mr. Chairman, now I would like to respond to a number of questions raised in letters from Mr. Harmon W. Shields, executive director of the Florida Department of Natural Resources, dated September 2 and 26, 1975, to certain members of the Merchant Marine and Fisheries Committee and the Florida Delegation concerning H.R. 200.

Mr. Shields' opposition to the language of H.R. 200 centers on a number of points, but generally he objects to ultimate authority lying with the Federal Government—in this case, the Secretary of Commerce—rather than with the States or the regional councils provided for in the bill. This matter was thoroughly considered by our committee. We believe that ultimate authority must rest in the Federal Government, but every possible precaution has been taken to assure that such authority will be used to preempt traditional State authority only where necessary in the national interest.

It is the intention of our committee that the initiative for management plans will come from the regional councils on which adequate State representation has been provided. This intention is clear in both the bill and the committee's report. Let me review with you the specific areas mentioned in Mr. Shields' letter and the protections provided:

His main concern involves the right of the Federal Government—in this case, the Secretary of Commerce—to preempt the States in the regulation of a marine fishery except for "internal waters," which are not defined in the bill or the committee report on the bill.

The section in question is section 309, which certainly does not provide carte blanche authority for Federal preemption of States rights. In fact, section 309 commences by noting that, except for very special cases as provided in subsection (b), nothing in this act shall be construed as extending or diminishing the jurisdiction of any State seaward of the coastline of the United States. Subsection (b) finds that anadromous species, certain coastal species, and certain Continental Shelf species move during their life cycles within waters over which more than one State has jurisdiction, and move from such waters to waters that are not within the jurisdiction of any States; for example, those waters seaward of the territorial sea—3 miles—of the United States.

Subsection (b) further finds that this legislation is not intended to affect State jurisdiction over fish principally found within waters under its jurisdiction; however it notes that there may be instances at certain times—such as when it has been determined that a fishery management plan needs to be developed to protect a certain fishery on the high seas beyond the territorial sea and such a plan is developed, either by a council or the Secretary—when Federal regulation in the waters under State jurisdiction may be necessary in order to insure the effectiveness of the management plan to be implemented.

Now, before such a management plan can be applied, the Secretary must first notify the particular State affected of the plan and give such State an opportunity to have a hearing on the plan pursuant to the Administrative Procedure Act. Next, if the Secretary determines after such hearings—which, in most cases, I feel sure the State would request—that the plan would affect a species of fish which is to any extent under the jurisdiction of such State and such State has failed to take action, or has taken action the result of which will both substantially and adversely affect the carrying out of such plan, then and only in such rare cases will the Federal Government be able to regulate such fishery.

Therefore, please take note that an implemented management plan must be violated or jeopardized by State action or inaction before there can be Federal preemption. The Marine Fisheries Councils provided for under this act are intended to have meaningful State representation, and they are the bodies expected to develop the management plan. Only if they fail to do so or fail to produce a plan, as contemplated by the act, can the Secretary of Commerce then act without the concurrence of the council concerned. I submit that these conditions are such that it is likely that they will be realized rarely, if ever. They are provided to guarantee that the fisheries that need to be regulated and managed, do not suffer for failure of one or more States or Regional Councils to act in pursuit of the policies established by this act; and if they function as we intend, Federal preemption shall remain but a future option.

Also, I draw your attention to the provision for restoration of State authority and regulation—section 309(c)—as soon as the reasons for any Federal preemption which may have occurred have been removed. This reaffirms the committee's intent that the States shall continue to have and to exercise their proper rights and responsibilities to the greatest degree consonant with the national interest and proper stewardship of our fisheries resources.

Next, with respect to the definition of "internal waters," it is true there is no definition of such waters in the act. It was felt by the committee that there was no need to define such waters since section 104(2) makes it clear that the jurisdiction of any State over any natural resources beneath and in its internal waters are not to be diminished that is inland from the coastline.

Furthermore, section 104(3) provides that, except as may be provided pursuant to section 309—in those unusual situations which may occur when a fishery management plan is implemented for a particular fishery—the jurisdiction of any State over any natural resource beneath and in the waters of the territorial sea—out to 3 miles—are not to be diminished.

Next, with respect to the assessment of license fees and their application toward support of fishery research and development, the important points to keep in mind are that the fees—if any are provided for pursuant to a fishery management plan—are to be collected and held in accounts associated with each approved fishery management plan and are to be approved in the geographical area of the Council concerned. In general, the committee expects the management plan to be developed by the Regional Council concerned, which, in turn, will have meaningful State representation on it. It is only when a Council fails or refuses to develop a needed plan that the Secretary would come forward with a plan for a particular fishery.

In the latter case—where the Secretary develops the plan that calls for fees—the committee expects the Secretary to consult with the appropriate Council and States concerned as to how the funds are to be utilized for research and development and make every effort to honor the recommendations of the Councils and States in this regard.

It should be stressed that it is entirely optional as to whether fees will be charged or not under such a plan and

if the plan calls for fees to be charged, then it would be only after they have been subjected to State influence and recommendation. Mr. Shields is incorrect in his understanding that civil penalties imposed against violators of the act would be deposited in the research account. Such penalties are to be deposited in the general fund of the Treasury.

It is true that the Secretary of Commerce could act as both judge and jury in determining whether civil penalties are to be imposed against violators. However, there are a number of Federal laws on the books that now provide for this type of procedure, such as the Endangered Species Act of 1973, the Marine Mammal Protection Act of 1972, and others. Also, it should be noted that in each of these acts—just as it is provided for under this act—the Secretary, after considering the circumstances surrounding any violation, has the authority to compromise, modify, or remit, with or without conditions, any civil penalties imposed. In addition, any person against whom a penalty has been assessed would be able to have his case reviewed by an appropriate U.S. district court if he is dissatisfied with the final decision of the Secretary.

Finally, Mr. Shields expressed concern over a number of other points: That the ultimate authority rests with the Secretary as to the appropriateness of a plan or was to whether a license fee could be imposed against a commercial or sport fisherman, or that the Secretary could veto a Council's plan without some authority for the Council to override the Secretary's veto. The committee was well aware of the concerns expressed by Mr. Shields since they were brought to the attention of the committee during markup sessions by a number of Members expressing these same concerns. However, after much deliberation, it was determined by the committee that the only workable solution was to have the final say-so over any matter lie with the Federal Agency concerned with such matters.

However, before exercising such veto authority or drawing up a management plan, on his own initiative, the committee intends for the Secretary of Commerce to make every effort to see that whenever possible the views of the States or the Councils are honored. It is only in these unusual situations, where the fishery concerned would be substantially and adversely affected, that the Secretary would not honor such views or recommendations.

Also, it should be pointed out that the committee is well aware of the continual squabbles between the States on certain fisheries matters; for example, the spiny lobster problem as it relates to the States of Florida and Georgia. In this situation, the Florida law is more protective of the spiny lobster than the Georgia law; consequently, it has been argued that the Florida law is being circumvented. In this regard, it should be noted that Mr. Shields, in a statement on the legislation, H.R. 2473, before the Committee on Merchant Marine and Fisheries, urged the adoption of an amendment to the bill that would authorize the Secretary of Commerce to preempt the States in their regulation of spiny lobsters in certain situations. The amendment reads as follows:

All State laws pertaining to the regulation of the taking or harvesting of such lobsters will remain in full force and effect until such time as the Secrtary reviews and passes judgment as to their adequacy and conformation to Federal regulation.

Mr. Shields' positions on H.R. 200 and on H.R. 2473 are clearly inconsistent, but it is clear that even he recognizes there are some cases where Federal preemption is necessary.

Finally, Mr. Chairman, I would like to respond to a letter I received from Mr. Evelle J. Younger, the attorney general of the State of California, dated September 30, 1975, concerning H.R. 200.

Mr. Younger argues that the bill should be amended to provide that where a State has an established "legitimate interest" in an extraterritorial resource, the "right" to manage that resource should be continued and not contravened nor preempted by Federal authority so long as no other State has a legitimate interest. The particular case in point concerns shrimp beds outside California's territorial waters, but which the State has regulated since their discovery and which constitute an important resource for certain California industries. Mr. Younger opposes replacement of the State by the Federal Government in managing this resource—which could occur if H.R. 200 is enacted and presently written and shrimp is the subject of a management plan—on the grounds that the State has performed well in managing this resource when the Federal Government has not nor ever sought to manage it.

There is no arguable point of law here that the Federal Government is other than clearly the party with proper constitutional jurisdiction. Recent Supreme Court decisions—for example, United States against Maine; United States against Alaska—have clearly established the Federal right to manage the resources beyond the 3-mile territorial sea. There is no reason to believe that proper professional, scientifically based management of these shrimp beds cannot be carried out by Federal officials in cooperation with professional State officials and biologists as they have been by State people alone. Accordingly, California interests in the resource will still be protected. California would continue to have a meaningful role in the regulation of this resource through the statutory—proposed—functions of the Pacific Marine Fisheries Council to which it would be member. But to seek to legislatively provide for continued State jurisdiction beyond State waters would be asking for a spate of similar exceptions by other States and would be unnecessarily confusing.

Also, the reason the Federal Government has not exerted itself in this area before, as it relates to American fishermen, is because of its lack of authority to manage these fishermen. H.R. 200 would, for the first time, provide the Federal Government with that authority.

Mr. Chairman, I urge the prompt passage of H.R. 200.

I include the following:

[From the Congressional Research Service]

CONSTITUTIONAL AND INTERNATIONAL LEGAL IMPLICATIONS OF THE PROPOSED MARINE FISHERIES CONSERVATION ACT OF 1975 (H.R. 200, 94TH CONG.)

(By David M. Sale, Legislative Attorney, American Law Division, September 17, 1975)

I. CONSTITUTIONALITY OF H.R. 200

There are several questions which might be raised concerning the constitutionality of H.R. 200. Specifically, these questions relate to (a) the power of Congress vis a vis that of the states and to (b) the validity of the Congressional veto procedure authorized in Sec. 206 of the bill.

A. Congressional power

Title I of H.R. 200 establishes an exclusive fishing zone of 200 miles in which exclusive rights are to be exercised by the United States [Secs. 101 and 102]. As state jurisdiction over natural resources beneath and in internal waters remains unaffected by this zone [Sec. 104(2)], there would seem to be no basis for a constitutional objection grounded upon an alleged infringment of state powers in these waters.

With regard to territorial sea waters, section 104(3) of the bill provides that in general, state jurisdiction to any natural resource beneath and in such waters is not diminished. The one exception to the undiminished state jurisdiction in the territorial sea is authorized by Sec. 307, which allows Federal regulation of certain stocks of fish in the territorial sea in specified instances. In essence, this exception is based on the findings that 1) certain fish species move during their life cycles within waters over which more than one State has jurisdiction or from such waters to waters that are not within the jurisdiction of any state, and 2) federal regulation may be necessary in order to insure the effectiveness of a management plan. Accordingly, if the Secretary of Commerce finds, after notice and hearings that any fishery mnaagement plan implemented pursuant to the Act applies to any species under the jurisdiction of any State, and that such State has taken any action, or omitted to take any action, the result of which will substantially and adversely affect the implementation of the plan, he shall declare and assert federal regulation of the fishery within the state's territorial waters.

There would seem to be little basis for asserting the unconstitutionality of the federal regulation sanctioned by the above provision. The paramount authority of the National Government in the three-mile belt has been recognized in *United States* v. *California*, 332 U.S. 19 (1947), *United States* v. *Louisiana*, 339 U.S. 699 (1950), *United States* v. *Texas*, 339 U.S. 707 (1950), and was recently reaffirmed in *United States* v. *Maine*, 420 U.S. 515 (1975). While these cases were concerned with state seabed claims, the paramount federal interest recognized by the Court in these decisions would seem to be equally applicable to fish within the territorial sea of a state. As stated by the Court in *United States* v. *Louisiana, supra:*

"The claim to our three-mile belt was first asserted by the national government. Protection and control of the area are indeed functions of national external sovereignty . . . The marginal sea is a national, not a state concern. National interests, national responsibilities, national concerns are involved. The problems of commerce, national defense, relations with other powers, war and peace focus there. National rights must therefore be paramount in that area." 339 U.S., at 704.

Finally, there would also seem to be no basis for a constitutional objection to the assertion of federal jurisdiction in waters beyond the territorial sea. As stated by the Court in *United States* v. *Maine, supra*, since the three-mile belt is subject to the para-

mount rights of the National Government, it follows that the waters and seabed beyond that limit are governed by the same rule, 420 U.S. at 521.

B. Congressional veto procedure

Section 201(f)(1) of H.R. 200 provides that any application for a fishing permit submitted by a foreign nation, when tentatively approved by the Secretary of Commerce, shall be deemed an "international fisheries agreement." Section 206(a) of the bill specifies that any international fishery agreement (other than a treaty) entered into after the date the bill is enacted, and any amendment entered into after such date to any international fishery agreement concluded prior to such date, will come into force for the United States only if before the close of 60 days from the date the agreement is transmitted to Congress neither House has adopted a resolution of disapproval. Thus, H.R. 200 preserves a right of Congressional disapproval or "one-House veto" with regard to two categories of international fishery agreements: 1) those made after enactment which, by virtue of Sec. 201(d) must contain specified conditions and restrictions, and 2) those made after enactment which amend pre-existing agreements and which must also contain the conditions and restrictions of Sec. 201(d).

The Congressional veto device has frequently been employed in executive branch reorganization legislation and has recently been extended to other areas, as in Sec. 5(c) of the War Powers Act, 87 Stat. 555. In the Ninety-Fourth Congress, several bills have been introduced which authorize the same procedure for executive agreements in general. See, for example, H.R. 4438, S. 1251, and S. 632.

One of the principal constitutional objections to the Congressional veto device is that by allowing Congress to disapprove Executive action through a resolution which is not submitted to the President for his signature, the President's constitutional role in the lawmaking process is undermined. That role is specified in Article 1, Sec. 7, cl. 3 of the Constitution, which requires that every order, resolution or vote to which the concurrence of the House and Senate may be necessary shall be presented to the President for his signature. This constitutional requirement has not been interpreted literally, but nevertheless applies to resolutions which are legislative in character and effect. See S. Rep. No. 1335, 54th Cong., 2d Sess. (1897) in 4 Hind's Precedents of the House of Representatives 329–332 (1907).

It is arguable that the Congressional veto authorized by Sec. 206 of H.R. 200 is "legislative" in effect because, in the absence of this provision, international fisheries agreements concluded under Sec. 201 of the bill, containing, of course, all the restrictions and conditions of Sec. 201(d), would otherwise become the Law of the Land. Thus, Sec. 206 has the effect of reserving a future right in Congress to disapprove, through a device which excludes Presidential participation guaranteed by the Presentation Clause of the Constitution, agreements which would otherwise be part of the Supreme Law.

It may be added that while the veto mechanism authorized by Sec. 206 allows Congress to insure that international fisheries agreements are in fact concluded in accordance with the conditions and restrictions of Sec. 201(d), the constitutional responsibility for taking care that the laws are faithfully executed rests with the President. Hence, Sec. 206 of the bill may also be an infringement of Art. II, Sec. 3 of the Constitution.

In response to the foregoing objections, it could be asserted that the fact of passage of the original legislation is sufficient compliance with Article 1, sec. 7 of the Constitution to overcome any challenge against the actual use of the Congressional veto. Arguably, the President, in signing the original legislation (or in having it passed over his veto), consents to the use of the veto device as a necessary mechanism to implement a desired Congressional policy. Further, the subsequent exercise of the disapproval procedure is not tantamount to new legislation, but merely constitutes the fulfillment of the will of Congress as expressed in the underlying statute.

It may also be contended that the Congressional veto device does not infringe the President's constitutional power to take care that the laws are faithfully executed (Constit. Art. II, Sec. 3). Recognizing that a rigid compartmentalization between legislative and executive functions cannot always be made and, indeed, could hinder the proper functioning of government, it is arguable that Congressional vetoes are not so different from other oversight techniques which also "interfere" with Executive functions. Moreover, unless Congress is to legislate in minute detail, it must either abdicate its legislative power or utilize some effective means of control, especially in areas where traditional oversight mechanisms have proved ineffective. As stated by Justice Jackson in his often-quoted concurring opinion in *Youngstown Sheet and Tube Co.* v. *Sawyer*, 343 U.S. 579, 635 (1952):

"The actual art of governing under our Constitution does not and cannot conform to judicial definitions of the power of any of its branches based on isolated clauses or even single Articles torn from context. While the Constitution diffuses power the better to secure liberty, it also contemplates that practice will integrate the dispersed powers into a workable government. It enjoins upon its branches separateness but interdependence, autonomy but reciprocity."

In summary, the question of the constitutionality of the Congressional veto device is complex and, in the absence of any specific judicial pronouncement, no definitive conclusion can be made regarding the validity of this mechanism as authorized by Sec. 206 of H.R. 200. Theoretical arguments aside, it may be stated that Congressional veto provisions have been enacted by the Congress for the last forty years and have been extended to the foreign affairs area. See H.R. Rep. No. 94–445, 94th Cong., 1st Sess. 58–60 (1975). This usage is perhaps encouraging to Congressional veto proponents.

II. VALIDITY OF H.R. 200 UNDER INTERNATIONAL LAW

A. Regional fishery treaties

Before considering the effect of H.R. 200 upon existing regional fishery treaties to which the United States is a party, it is instructive to note the well-settled rules of domestic law than 1) no constitutional violation occurs where federal legislation is inconsistent with a prior treaty, and 2) the measure later in time controls. As stated by the U.S. Supreme Court in *Whitney* v. *Robertson*, 124 U.S. 198 (1888):

"By the Constitution a treaty is placed on the same footing, and made of like obligation. Both are declared by that instrument to be the supreme law of the land, and no superior efficacy is given to either over the other. When the two relate to the same subject, the courts will always endeavor to construe them so as to give effect to both, if that can be done without violating the language of either; but if the two are inconsistent, the one last in date will control the other, provided always the stipulation of the treaty on the subject is self-executing. If the country with which the treaty is made is dissatisfied with the action of the legislative department, it may present its complaint to the executive head of the government, and take such other measures as it may deem essential for the protection of its interests. The courts can afford no redress. Whether the complaining nation has just cause of complaint, or our country was justified in its legislation, are not matters for judicial cognizance, 124 U.S. at 194."

The extent to which a court will attempt to reconcile statutes and treaties is reflected in the following excerpt from 74 *Am. Jur.* 2d, Treaties, sec. 16 (1974):

". . . the purpose by statute to abrogate a treaty or any designated part of a treaty, or the purpose by treaty to supersede the whole or a part of an act of Congress, must not be lightly assumed, but must appear clearly and distinctly from the words used in the statute or in the treaty. It is the duty of the court, if possible, to find an interpretation of the statute which will involve no infraction of the treaty—no violation of the pledged faith of the government of the United States to the government of another country.

Repeals by implication are never favored, and none will be recognized unless the two expressions—treaty and statutes—are absolutely incompatible.

Although there is no violation of domestic constitutional law in the United States where treaties and federal statutes conflict, any resulting inconsistency may well be a violation of the nation's international legal obligations under the treaty. This point is emphasized by Hackworth, who states that "Where a treaty and an act of Congress are wholly inconsistent with each other and the two cannot be reconciled, the courts have held that the one later in point of time must prevail. While this is necessarily true as a matter of municipal law, it does not follow, as has sometimes been said, that a treaty is repealed or abrogated by a later inconsistent statute. The treaty still subsists as an international obligation although it may not be enforceable by the courts or administrative authorities." 5 Hackworth, *Digest of International Law* 185–86 (1943).

There would appear to be no conflict, however, between Title I of the proposed legislation and existing regional fishery treaties to which the United States is a party. In spite of a number of provisions in the bill which would seem to suggest a conflict [eg. Sec. 2(a)(5), which cites the ineffectiveness of international agreements in halting the depletion of valuable coastal and anadromous species caused by overfishing, and Secs. 101 and 102 of Title 1, which establish an exclusive fishing zone of 200 miles over ocean areas and species subject to existing treaty arrangements], it appears that these treaties are to remain in force.

Evidentiary support for this conclusion may be seen in Sec. 202 of the bill, entitled "Treatment of Certain Existing International Fisheries Agreements," where it is provided that the Secretary of State is to renegotiate existing treaties in order to conform them to the legislation and is to submit annual reports to the Congress on the results of these negotiations [Secs. 202 (b) and (c)]. The Secretary's two-fold duty to "renegotiate" existing treaties (as opposed, for example, to a duty to give notice of termination), and to make "annual reports" on the status of these negotiations, seems at odds with any conclusion that the treaties are to be superseded by the legislation. A reasonable interpretation of the statutory language suggests that 1) existing treaties are to be honored, that 2) they are also to be renegotiated to conform to the legislation, and that 3) Congress is to be informed annually on the status of the negotiations, perhaps for purposes of future termination if renegotiation is unsuccessful.

Further support for the above conclusion seems clear from the Report of the House Merchant Marine and Fisheries Committee which, after indicating that there is no authority for continued fishing by foreign vessels after July 1, 1976, except pursuant to the legislation, states that "Of course, treaties governing fishing within the extended fisheries zone would be honored subject to

the renegotiation provisions of section 202 (b)." H.R. Rep. No. 94–445, 94th Cong., 1st Sess. 51(1975). With regard to the renegotiation and report provisions of Sec. 202 (b) and (c), the Report contains the following explanation:

"(b) Renegotiation of Treaties.—This subsection would require the Secretary of State, in consultation with the Secretary and the Secretary of the Department in which the Coast Guard is operating, immediately after the date of the enactment of this Act to take the appropriate steps to renegotiate all treaties (within the meaning of section 2 of Article II of the Constitution) which pertain to fishing within the fisheries zone or which pertain to species, stocks of fish, or fisheries with respect to which the United States may exercise management and conservation authority under this Act. The renegotiations would be designed to conform such treaties to the provisions and requirements of this Act.

"It is to be noted that section 2 of Article II of the Constitution gives to the President the power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur. There are a number of treaties which would be affected by this subsection, two of the more important are as follows: the International Convention for the Northwest Atlantic Fisheries and the International Convention for the High Seas Fisheries of the North Pacific Ocean.

"(c) Reports to Congress.—This subsection would require the Secretary of State to submit to the Congress a written report on or before May 15, 1976, and annually thereafter, on the results of the negotiations pertaining to the treaties covered by subsection (b).

"The Committee selected the date of May 15, 1976, for the first report on the results of the renegotiations since the new 200-mile fisheries zone would come into force and effect on July 1, 1976. The Committee is most hopeful that the Secretary of State will act promptly and with vigor in renegotiating these agreements with the countries concerned so that the fisheries involved can receive the protection to which they are entitled." H.R. Rep. No. 94–445 *supra*, at 55–56.

B. Geneva Fisheries Convention

There would seem to be no inconsistency between Title I of H.R. 200 and the 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas [17 U.S.T. 138]. Technically, the validity of Title I, which establishes an exclusive fishery zone, should not be measured against the Geneva Fisheries Convention, which is concerned with the right of a coastal State to take unilateral conservation measures. This distinction is apparent from the following explanation by Bishop:

"It must, of course, be recognized that the [Geneva Fisheries Convention] does not deal with the situation in which the coastal State wants not merely to regulate the fishery but also to reserve a high seas fishery exclusively for its own nationals. * * *

". . . neither [the 1958 or 1960 Geneva Law of the Sea Conferences] achieved agreement on . . . the problem of claims to exclusive fishing zones. Only time will tell whether future efforts will be more successful in dealing with claims to exclusive rights to fish. The Geneva Fishing Convention stands separately, neither dependent upon such agreement nor blocking solution to the problems of exclusive fishing claims. Of course, if there should eventually be worldwide agreement that the coastal state has exclusive fishing rights over broader areas of what are now high seas, the right of the coastal state unilaterally to establish conservation controls in these areas without regard for the terms of the Geneva Fishing Convention would doubtless follow. * * * Bishop, "The 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas,'" 62 Columbia L. Rev. 1206, 1223–24 (1962).

Thus, the validity of the exclusive fishing zone established by Title I of the bill should be assessed by reference to other sources of international law, both conventional and customary, as is attempted in this memorandum infra, Part II(C). For present purposes, however, it seems correct to assume the validity of the exclusive fishery zone and merely inquire whether any unilateral conservation measures authorized by H.R. 200 outside this zone are violative of the Geneva Fisheries Convention.

Section 201(k) (1) of H.R. 200 declares that any fishery management plan prepared pursuant to section 304 or 305(d) which in whole or in part applies to any anadromous species in any area of the high seas seaward of the United States exclusive fishery zone is deemed a "unilateral measure of conservation" within Article 7 of the Geneva Fisheries Convention. Article 7(1) of the Convention authorizes such unilateral measures of conservation "appropriate to any stock of fish or other marine resources in any area of the high seas adjacent to [the coastal State's] territorial sea, provided that negotiations to that effect with the other States concerned have not led to an agreement within six months." Accordingly, H.R. 200 provides for a 6-month delay before fisheries management plans applicable to anadromous species seaward of the exclusive fishing zone go into effect. During that period, the Secretary of State is to enter into the required negotiations [Sec. 201(k) (2)].

While there would appear to be no inconsistency between Sec. 201(k) (2) and Article 7(1) of the Convention, it should be noted that Article 7(2) of the latter imposes additional standards against which the proposed legislation must be assessed.

Article 7(2) (a) of the Convention provides, for example, that there must be a need for urgent application of the unilateral conservation measures in light of the existing knowledge of the fishery. Section 2 of H.R. 200 seems to fulfill this requirement in its findings inter alia, of a dramatic increase of foreign fishing with the concomitant depletion of anadromous species to the point where the survival of the fisheries is threatened, of a threat to the social and economic fabric of local coastal regions caused by the depletion of fishery resources at an ever-increasing rate, and of the ineffectiveness of international agreements in halting the depletion of valuable anadromous species caused by overfishing with the attendant danger of irreversible depletion of these species.

Article 7(2) (b) of the Convention specifies that unilateral measures of conservation adopted by the coastal State must be based on appropriate scientific findings. The proposed legislation seems consistent with this requirement, as Section 302(c) (1) provides that the management of fisheries is to be consistent with certain national fisheries management standards which include "the best scientific biological information available." Moreover, in his review of fishery management plans submitted by the Regional Fishery Councils, the Secretary of Commerce is to determine that these plans are consistent with the national fishery management standards [Section 305(c) (8)].

Finally, Article 7(2) (c) of the Convention provides that the unilateral measures of conservation adopted by the coastal State must not discriminate in form or in fact against foreign fishermen. Under Sec. 304(b) (1) (B), the Regional Fishery Councils, in preparing a fishery management plan, are authorized to specify conditions and limitations governing fishing by any vessel documented under United States law or registered under State law, or by any other vessel (i.e. foreign vessels), which the Council believes should be implemented to carry out conservation measures in waters seaward of the exclusive fisheries zone in the case of anadromous species. Specific plan requirements prepared by the Councils may include the adoption of licenses, permits, or fees as a condition to engaging in any fishery or other activity regulated by the Act. The amount of fees may vary between domestic and foreign fishermen or between different categories of foreign fishermen [Sec. 304(b) (3) (E)].

It is arguable that the fee variance sanctioned by Sec. 304(b) (3) (E) between domestic and foreign fishermen for anadromous species seaward of the exclusive fishery zone violates the non-discrimination provision of Article 7(2) (C) of the Convention. It might be further contended that the fee variance authorized by Sec. 304(b) (3) (E) between different categories of foreign fishermen is also suspect under Article 7(2) (c) of the Convention. Here, however, perhaps it could be argued that the validity vel non of discrimination between different categories of foreign fishermen depends on the basis of the categorization. That is, a fee variance based on categories associated with different anadromous species might be permissible if uniformly applied, but a variance reflecting political enmity toward a particular foreign nation or nations might be a violation.

C. Geneva High Seas Convention and Customary International Law.

As noted *supra*, the validity of the exclusive fishing zone established by Title I of H.R. 200 may be properly assessed by reference to sources of international law other than the Geneva Fisheries Convention. It was earlier concluded that Title I, with support in the Committee Report, seems to preserve regional fishery treaties subject, of course, to the renegotiation and annual reporting obligations of the Secretary of State. It may also be noted that international fishery agreements (other than treaties) to which the United States is a party would also be honored, but can not be extended or renewed except pursuant to the legislation. See Sec. 202(a) and H.R. Rept. No. 94–445, 94th Cong., 1st Sess. 51 (1975). It remains to be considered, therefore, whether the validity of the United States exclusive fishery zone created by Title I is valid by reference to the 1958 Geneva Convention on the High Seas [13 U.S.T. 2312] or to any applicable customary rules of international law which may have evolved since 1958.

Article 2 of the Geneva High Seas Convention provides that the high seas (i.e. all parts of the sea that are not included within the territorial or internal waters of a State) are open to all nations and that no State may validly purport to subject any part of them to its sovereignty. The Article further provides that both coastal and non-coastal States are entitled to exercise certain freedoms on the high seas, including specifically the freedom of fishing. Finally, Article 2 specifies that high seas freedoms are to be exercised by all States with reasonable regard to the interests of other States in their exercise of the freedoms of the high seas.

The recent decision by the International Court of Justice in the *Fisheries Jurisdiction* Case (*United Kingdom* v. *Iceland*), Merits Judgment of July 25, 1974, [1974] I.C.J. Rep. 3, held that Iceland's exclusive fishery zone of 50 miles was a violation of Article 2 of the Geneva High Seas Convention, as applied to the United Kingdom's historic rights and special interests in the disputed ocean area. In particular, Iceland's extension of its fishery zone to 50 miles was not in keeping with its duty of reasonable regard for the established interests of the United Kingdom within the zone.

It should be noted that the International Court did not rule that the Icelandic exten-

sion to 50 miles was *ipso jure* invalid under international law, but that the extension was non-opposable to the United Kingdom's historic fishing rights in the area. Thus, the decision may be viewed as limited in scope and, by virtue of Article 59 of the I.C.J. Statute, as binding only between the parties and with respect to this particular case. These limiting factors notwithstanding, and in recognition of the significance of opinions of the International Court as declaratory of existing international law, it is arguable that the United States fisheries zone extension to 200 miles would be non-opposable under Article 2 of the Convention to any State having established rights in the area. Presumably, such an argument would be made from those States which do not enjoy rights under existing treaties or agreements with the United States, as those rights seem to have been preserved by the legislation as noted *supra*.

Section 201(d) of H.R. 200 appears to take account of the established rights of foreign nations in the extended fisheries zone by directing that consideration be given to "any traditional or historical patterns of fishing" by applicant foreign nations. It should be noted, however, that if the United States makes a determination adverse to the alleged traditional fishing rights of another State, and that determination is not in accord with international law, then H.R. 200 as applied may be invalid with respect to the particular foreign State or States affected. In this regard, the International Court's reference to the United Kingdom's historic interest in the disputed ocean area off the Icelandic coast seems instructive:

63. In this case, the Applicant has pointed out that its vessels have been fishing in Icelandic waters for centuries and that they have done so in a manner comparable with their present activities for upwards of 50 years. Published statistics indicate that from 1920 onwards, fishing of demersal species by United Kingdom vessels in the disputed area has taken place on a continuous basis from year to year, and that, except for the period of the Second World War, the total catch of those vessels has been remarkably steady. Similar statistics indicate that the waters in question constitute the most important of the Applicant's distant-water fishing grounds for demersal species.

64. The Applicant further states that in view of the present situation of fisheries in the North Atlantic, which has demanded the establishment of agreed catch-limitations of cod and haddock in various areas, it would not be possible for the fishing effort of United Kingdom vessels displaced from the Icelandic area to be diverted at economic levels to other fishing grounds in the North Atlantic. Given the lack of alternative fishing opportunity, it is further contended, the exclusion of British fishing vessels from the Icelandic area would have very serious adverse consequences, with immediate results for the affected vessels and with damage extending over a wide range of supporting and related industries. It is pointed out in particular that wide-spread unemployment would be caused among all sections of the British fishing industry and in ancillary industries and that certain ports—Hull, Grimsby and Fleetwood—specially reliant on fishing in the Icelandic area, would be seriously affected. Merits, at 28.

Commenting upon the Court's pronouncements concerning historic interests, one observor has expressed the view that "Here the Court's judgment may be useful, since it emphasizes that for an historic interest to be shown in a fishery, the fishery must have been exploited fairly continuously over a lengthy period of time (decades rather than years) and the fishing must be of some economic importance to the State claiming the historic interest." Churchill, "The Fisheries Jurisdiction Cases: The Contribution of the International Court of Justice to the Debate on Coastal States' Fisheries Rights," 24 *Int. & Comp. L.Q.* 82, 91–92 (Jan. 1975).

The question which remains unanswered after the Fisheries Jurisdiction Case is the ipso jure validity of an exclusive fishery zone beyond the presently accepted minimum limit of 12 miles, a minimum which the International Court recognized as valid under customary international law as it had evolved in recent years. While the Court's decision is narrowly confined, there were Separate Concurring and Dissenting Opinions in the case which did speak to this precise issue. In cerpted portions of these Opinions reflecting an Appendix to this memorandum are exthe divergent views of the Justices on this question. The essence of these arguments, as they might be applied to Title I of H.R. 200, can be summarized as follows:

Arguments that an exclusive fishery zone beyond 12 miles is invalid ipso jure under international law: (a) such an extension violates the freedom of fishing guaranteed under Article 2 of the Geneva High Seas Convention; (b) even if the underlying premise of Article 2 of the Convention is no longer valid today (viz., that fishery resources are inexhaustible), the provision is still in force and effect; (c) claims to broad areas of fishery jurisdiction beyond 12 miles have not established a new rule of customary international law, as these claims have been met by protests from States affected; (d) proposals at the Third Law of the Sea Conference favoring broad coastal State jurisdiction in an economic zone of 200 miles are not existing law.

Arguments that an exclusive fishery zone beyond 12 miles is not invalid ipso jure under international law: (a) Given the variety of claims relating to fishery zones, it is clear that State practice does not confirm the existence of a maximum breadth for an exclusive fishery zone; (b) although a number of important maritime and distant water fishing States have protested broad claims to fishery zones, most States have not protested; (c) in view of the unsettled nature of the law in this area, State proposals at the Third Law of the Sea Conference are relevant as evidencing developing norms of customary international law; (d) the proposals at the Third Law of the Sea Conference relating to the 200 mile economic zone stress coastal State "sovereign rights" for purposes of exploiting, conserving, and managing the renewable natural resources of the seabed and superjacent waters.

While these are arguments which could be used by both proponents and opponents of Title I of H.R. 200, it should be noted that among those judges which considered the ipso jure validity of a claim to an exclusive fishing zone beyond 12 miles, four dissenting judges would have held against the validity of such a claim, and, as correctly noted by a recent commentary, "the general conclusion of the judges forming the majority . . . is that there is at present no rule of customary international law which prohibits a claim to an exclusive fishing zone in excess of 12 miles, nor is there a rule of customary international law which would give such a claim validity erga omnes. The validity of the claim will depend on all the surrounding circumstances, in particular the degree to which the claim has been accepted or acquiesced in. None of the judges are very happy with this situation, but they express the hope that the Third United Nations Conference on the Law of the Sea, or failing that, the development of customary international law, will lead to more certain rules in this area of law." Churchill supra, at 91–92.

CONCLUSION

On the basis of the foregoing analysis, the following conclusions would appear to be established by this memorandum:

1. There is no constitutional violation created by the federal regulation of fisheries within the territorial sea and beyond, given the judicial recognition of paramount federal interests in this area. Constitutional objections might be made to the Congressional veto provision of H.R. 200 in Sec. 206, but the relatively long-term usage of this device plus the lack of judicial precedents on point make the success of such a challenge uncertain.

2. There is no constitutional violation where federal legislation conflicts with a prior treaty or treaties. Domestically, the measure later in time controls and the courts will endeavor to construe treaties and legislation so as to give effect to both. Where, however, an inconsistency exists between a federal statute and a prior treaty, the United States may be subject to a claim that the Nation has violated its international legal obligations.

3. There is no conflict between existing regional fishery treaties to which the United States is a party and Title I of H.R. 200. The language of the bill and the Report of the House Merchant Marine and Fisheries Committee indicate that existing treaties are to be honored, subject to the Secretary of State's responsibility to renegotiate the treaties and make annual reports to the Congress on the results of such renegotiation.

4. Title I of H.R. 200, which establishes an exclusive fishery zone of 200 miles, is not in conflict with the 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas, as this Convention concerns the adoption of unilateral measures of conservation by coastal States, not the establishment of exclusive fishery zones. Section 304(b)(3)(E) of H.R. 200, which authorizes a fee variance between domestic and foreign fishermen, and between different categories of foreign fishermen, regarding anadromous species seaward of the exclusive fishing zone, is suspect under the nondiscrimination requirement of Article 7 (2)(C) of the Geneva Fisheries Convention.

5. The validity of the United States exclusive fishery zone established by Title I of H.R. 200 is unclear when assessed against the high seas freedom of fishing, recognized in Article 2 of the 1958 Geneva Convention on the High Seas, and emerging customary rules of international law, which arguably sanction claims beyond 12 miles. Respectable arguments can be maintained for and against the validity of such a zone, as is evidenced by the recent International Court of Justice opinions in the Fisheries Jurisdiction Case. The limited scope of this decision militates against its general application to the proposed United States exclusive fishery zone, but the decision could be invoked by foreign nations adversely affected who assert established rights in ocean areas within the zone.

JOINT SEPARATE OPINION OF JUDGES FORSTER, BENGZON, JIMÉNEZ DE ARÉCHAGA, NAGENDRA SINGH, AND RUDA

1. What has made it possible for us to concur in the reasoning of the Court and to subscribe to its decision is that, while the Judgment declares the Icelandic extension of its fisheries jurisdiction non-opposable to the Applicant's historic rights, it does not declare, as requested by the Applicant, that such an extension is without foundation in international law and invalid *erga omnes*. In refraining from pronouncing upon the Applicant's first submission and in reaching instead a decision of non-opposability to the United Kingdom of the Icelandic regulations, the Judgment is based on legal grounds which are specifically confined to the circumstances and special characteristics of the present case and is not based on the Applicant's main legal contention, namely, that a customary rule of international law exists today imposing a general prohibition on extensions by States of their exclusive fisheries jurisdiction beyond 12 nautical miles from their baselines.

2. In our view, to reach the conclusion that there is at present a general rule of custom-

ary law establishing for coastal States an obligatory maximum fishery limit of 12 miles would not have been well founded. There is not today an international usage to that effect sufficiently widespread and uniform as to constitute, within the meaning of Article 38, paragraph 1(*b*), of the Court's Statute, "evidence of a general practice accepted as law".

It is an indisputable fact that it has not been possible for States, despite the efforts made at successive codification conferences on the law of the sea, to reach an agreement on a rule of conventional law fixing the maximum breadth of the territorial sea nor the maximum distance seaward beyond which States are not allowed to extend unilaterally their fisheries jurisdiction. The deliberations of the 1958 Geneva Conference on the Law of the Sea revealed this failure which has been recorded in its resolution VIII of 27 April 1958. The General Assembly of the United Nations consequently laid down that these two subjects would constitute the agenda for the 1960 Conference on the Law of the Sea, which also failed to reach agreement on a text. The establishment of a rule the topics on the agenda of the current Third on these two questions thus remains among United Nations Conference on the Law of the Sea.

* * * * *

[8] . . . to recognize the possibility that States might claim without risk of challenge or objection an exclusive fisheries zone of 12 miles cannot by any sense of logic necessarily lead to the conclusion contended for by the Applicant, namely, that such a figure constitutes in the present state of maritime international law an obligatory maximum limit and that a State going beyond such a limit commits an unlawful act, which is invalid *erga omnes*. This contention of the Applicant is an answer to a different question, which must be examined separately.

9. That question is as follows: is there an existing rule of customary law which forbids States to extend their fisheries jurisdiction beyond 12 miles? In order to reply in the affirmative to this question, it would be necessary to be satisfied that such a rule meets the conditions required for the birth of an international custom.

10. It is a fact that a continually increasing number of States have made claims to extend and have effectively extended their fisheries jurisdiction beyond 12 miles. While such a trend was initiated in Latin America, it has been lately followed not only in that part of the world, but in other regions as well. A number of countries in Africa and Asia have also adopted a similar action. The total number adopting that position may now be estimated to be between 30 to 35 coastal States, depending on the interpretation to be given to certain national laws or decrees.

11. While those claims have generally given rise to protests or objections by a number of important maritime and distant-water fishing States, and in this respect they cannot be described as being "generally accepted", a majority of States have not filed similar protests, and quite a number have, on the contrary, made public pronouncements or formal proposals which would appear to be inconsistent with the making of such protests.

12. In this respect, attention must be drawn to declarations made, or proposals filed by a number of States in relation to or in preparation for the Third Conference on the Law of the Sea. It is true that, as the Court's Judgment indicates, the proposals and preparatory documents made in the aforesaid content are *de lege ferenda*. However, it is not possible in our view to brush aside entirely these pronouncements of States and consider them devoid of all legal significance. If the law relating to fisheries constituted a subject on which there were clear indications of what precisely is the rule of international law in existence, it may then have been possible to disregard altogether the legal significance of certain proposals, declarations or statements which advocate changes or improvements in a system of law which is considered to be unjust or inadequate. But this is not the situation. There is at the moment great uncertainty as to the existing customary law on account of the conflicting and discordant practice of States. Once the uncertainty of such a practice is admitted, the impact of the aforesaid official pronouncements, declarations and proposals must undoubtedly have an unsettling effect on the crystallization of a still evolving customary law on the subject. Furthermore, the law on fishery limits has always been and must by its very essence be a compromise between the claims and counter-claims of coastal and distant-water fishing States. On a subject where practice is contradictory and lacks precision, is it possible and reasonable to discard entirely as irrelevant the evidence of what States are prepared to claim and to acquiesce in, as gathered from the positions taken by them in view of or in preparation for a conference for the codification and progressive development of the law on the subject?

13. The least that can be said, therefore, is that such declarations and statements and the written proposals submitted by representatives of States are of significance to determine the views of those States as to the law on fisheries jurisdiction and their *opinio iuris* on a subject reguated by customary law. A number of pronouncements of States in the aforesaid circumstances reveals that while the fundamental principle of freedom of fishing in the high seas is not challenged as such, a large number of coastal States contest or deny that such a principle applies automatically and without exception to adjacent waters in all parts of the world as soon as the 12-mile limit is reached. Such an attitude is not only based on the clear consideration that two conferences have failed to agree on a maximum limit but also because of additional factors which have emerged in the intervening period between the Second and Third United Nations Conferences. For example, it is contended that the 12-mile fishery limit ensures, in fact, a clear privilege and a distinct advantage to the few States equipped to undertake distant-water fishing, thus widening the gulf between developed and developing States; a second fact is that technological advances and the pressure on food supplies resulting from the population explosion have caused a serious danger of depletion of living resources in the vicinity of the coasts of many countries. In this respect, economic studies on fisheries have shown that the principle of open and unrestricted access to coastal waters inevitably results in physical and economic waste, since there is no incentive for restraint in the interest of future returns: anything left in adjacent waters for tomorrow may be taken by others today. While the better-equipped States can freely move their fleets to other grounds as soon as the fishing operations become uneconomical, the coastal States, with less mobile fleets, maintain the greatest interest in ensuring that the resources near their own coasts are not depleted.

14. While granting that proposals and preparatory documents are *de lege ferenda* and made with the purpose of reaching future agreements on the basis of concessions and compromise, the following inferences could, however, be legitimately drawn from their existence:

(*a*) States submitting proposals for a 200-mile economic zone, for instance, which includes control and regulation of fishery resources in that area, would be in a somewhat inconsistent position if they opposed or protested against claims of other States for a similar extension. . . .

(*b*) it would not seem justified to count States which have agreed to or made such declarations and proposals as figuring in the group of States concurring in the establishment of an alleged practice in favour of a 12-mile maximum obligatory limit.

15. If, to the 30 to 35 States which have already extended their fisheries jurisdiction beyond 12 miles, there is added the further number of 20 to 25 States which have taken the attitudes described in the preceding paragraph, the conclusion would be that, today, more than half the maritime States are on record as not supporting in fact and by their conduct the alleged maximum obligatory 12-mile rule. In these circumstances, the limited State practice confined to some 24 maritime countries cited by the Applicant in favour of such a rule cannot be considered to meet the requirement of generality demanded by Article 38 of the Court's Statute.

16. Another essential requirement for the practice of States to acquire the status of customary law is that such State practice must be common, consistent and concordant. Thus contradiction in the practice of States or inconsistent conduct, particularly emanating from these very States which are said to be following or establishing the custom, would prevent the emergence of a rule of customary law.

17. Certain States, whose conduct is invoked as showing the existence of the 12-mile maximum rule, have not hesitated to protect their own fishing interests beyond that limit, when they felt that it was required for the benefit of their nationals by the existence of important fisheries in waters adjacent to their coasts. Various methods have been utilized to achieve that result, but the variety of methods should not obscure the essential fact. It could be observed for instance, that the United States and the USSR have lately carried out this form of protection not unilaterally but through bilateral agreements *inter se* and with other States.[1] However, these Powers began by adopting unilateral measures which created for the States whose nationals were fishing in adjacent waters the need to enter into fishery agreements if they wished that their nationals could continue their fishing activities in those grounds. Once the need for an agreement was thus created, it was not difficult for these Powers, because of their possibilities in offering various countervailing advantages, to reach agreements which assured them of a preferential or even an exclusive position in those fishing grounds in which they had special interests in areas adjacent to their shores well beyond the 12 miles.

---

[1] International Convention (with annex and Protocol) for the High Seas Fisheries of the North Pacific Ocean signed on 9 May 1952 by the United States of America, Canada and Japan (*United Nations Treaty Series*, Vol. 203, p. 65); Convention concerning the High Seas Fisheries of the North-West Pacific Ocean signed on 14 May 1956 by Japan and the Union of Soviet Socialist Republics (*AJIL*, 1959, p. 763); Agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on Certain Fishery Problems in the North-Eastern Part of the Pacific Ocean off the Coast of the United States of America, signed on 13 February 1967 (*United Nations Treaty Series*, Vol. 633, p. 157); Agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on Certain Fishery Problems on the High Seas in the Western Areas of the Middle Atlantic Ocean, signed on 25 November 1967 (*United Nations Treaty Series*, Vol. 701, p. 162); Agreements effected by Exchange of Notes signed on 23 December 1968 between the United States and Japan on Certain Fisheries off the United States Coast and Salmon Fisheries (*TIAS* of the United States, No. 6600).

This demonstrates the fact that even for States which cannot claim a special dependence on their fisheries for their livelihood or economic development, 12 miles may not be sufficient. It would not seem fair or equitable to postulate on the basis of such divergent conduct a rule of law which would deny the power to protect much more vital fishing interests to countries lacking the same possibilities of offering attractive terms by way of compensation for abstaining from fishing in their adjacent waters.

* * * * *

20. Consequently, it is not possible to find today in the practice of States what the Court described in the *Asylum* case as "a constant and uniform usage, accepted as law" (*I.C.J. Reports 1950*, p. 277). The alleged 12-mile limit maximum obligatory rule does not fulfill, "an indispensable requirement," namely, "that within the period in question, short though it might be, State practice, including that of States whose interests are specially affected, should have been both extensive and virtually uniform" (*North Sea Continental Shelf* cases, *I.C.J. Reports 1969*, p. 43).

21. It could therefore be concluded that there is at present a situation of uncertainty as to the existence of a customary rule prescribing a maximum limit of a State's fisheries jurisdiction. No firm rule could be deduced from State practice as being sufficiently general and uniform to be accepted as a rule of customary law fixing the maximum extent of the coastal State's jurisdiction with regard to fisheries. This does not mean that there is a complete "lacuna" in the law which would authorize any claim or make it impossible to decide concrete disputes. In the present case, for instance, we have been able to concur in a judgment based on two concepts which we fully support: the preferential rights of the coastal State and the rights of a State where a part of its population and industry have a long established economic dependence on the same fishery resources.

DISSENTING OPINION OF JUDGE GROS

[Translation]

I consider that Iceland's claim to establish an exclusive fishing zone over the superjacent waters of the continental shelf is contrary to the rules of international law, but the reasoning which leads me to that opinion, and my analysis of the dispute itself, are different from what is contained in the Judgment, from both the reasoning and the decision of the Court.

* * * * *

I have made it clear for my own part that I regarded the extension from 12 to 50 sea miles as contrary to general international law, and therefore non-opposable to any State fishing in the waters adjacent to the 12-mile limit around Iceland. The Court stated in its Judgment in the *North Sea Continental Shelf* cases that: "The coastal State has no jurisdiction over the superjacent waters." (*I.C.J. Reports 1969*, p. 37, para. 59.) The claim of Iceland is expressly in relation to those waters. As to the lawfulness of an encroachment into sea areas which all States fishing in the area, without exception regarded as forming part of the high seas on 1 September 1972, it is unarguable that it was lawful; Articles 1 and 2 of the Convention on the High Seas and Article 24 of the Convention on the Territorial Sea are provisions which are in force, and since the only argument relied on to exclude them is that they are outdated, no reply on this point is needed; the calling of a third codifying Conference in July 1974 amply demonstrates that certain procedures, and agreement, are necessary to replace codifying texts. Until different texts have been regularly adopted, the law of the sea is recorded in the texts in force.

It has also been said that a claim extending beyond 12 miles is not *ipso jure* unlawful, because there have been many claims of this kind; but by conceding that these claims are also not *ipso jure* lawful one admits that acceptance by others is necessary to make them opposable. What could a claim which was disputed by all the States concerned in a given legal situation be, if it were not unlawful? But since all States fishing in the Icelandic waters in question are opposed to the extension, what is the reason for not stating this and drawing the necessary conclusion?

There is no escaping the fact that if the States which oppose the extension cannot do so on the basis of a rule of international law, their opposition is ineffective, and this must be said; but if they can base their opposition on such a rule it is equally necessary not to hesitate to say that. It is the accumulation and the constancy of the opposition which should have obliged the Court to make a general pronouncement in the present case.

DISSENTING OPINION OF JUDGE PETRÉN

[Translation]

* * * * *

As there does not exist between the two States any convention on which the Icelandic decision could be founded, Iceland could seek its justification only in customary international law. The first two United Nations Conferences on the Law of the Sea amply demonstrated that no such general rule of customary international law existed in 1958–1960. If there is any general customary rule that Iceland can rely on, it must have come into being since 1960. Let us therefore consider what evolution may have taken place.

It is true that an increasing number of coastal States, whether by proclaiming the extension of their territorial waters or by claiming fishery zones beyond those waters, have claimed an exclusive fisheries jurisdiction extending up to the 50-mile or even the 200-mile limit. Nevertheless, even if one confines one's attention to the zone lying between the 12-mile and the 50-mile limits, the number of States that have claimed exclusive fisheries jurisdiction therein cannot be considered sufficiently large to justify the conclusion that a new rule of law, generally accepted as valid by the international community, is being applied. Furthermore, the States whose interests are threatened by these claims have constantly protested. Hence another element which is necessary to the formation of a new rule of customary law is missing, namely its acceptance by those States whose interests it affects.

DISSENTING OPINION OF JUDGE ONYEAMA

* * * * *

16. In the forefront of the submissions of the United Kingdom in the Application and in the Memorial on the merits was a request for a decision by the Court that there is no foundation in international law for the claim by Iceland to be entitled to extend its fisheries jurisdiction by establishing a zone of exclusive fisheries jurisdiction extending to 50 nautical miles. This, it seems to me, was the gravamen of the dispute, but the Court now declines to decide it. The decision appears to approach the dispute, not from the point of view of the conflict of the extension with any conventions or with customary international law, but from the point of view that the extension was an exercise of preferential rights which did not give due regard to established rights. This was not the dispute between the Parties and it forms no part of the claim made by Iceland.

17. I am of the opinion that Article 2 of the High Seas Convention and Article 3 of the Continental Shelf Convention [1] provide a basis in positive international law for deciding that the extension has no basis in international law; and the Court, having found that the concept of the fishery zone, and the extension of that fishery zone up to a 12-mile limit from baselines, appear now to be generally accepted as customary international law, should have drawn the conclusion that the unilateral extension to a 50-mile limit by Iceland with which this case is concerned is contrary to international law, and stated that conclusion in the operative clause of the Judgment. [Footnote 2 omitted.]

---

[1] "The coastal State has no jurisdiction over the superjacent waters" [of the continental shelf] (*I.C.J. Reports 1969*, p. 37, para. 59).

Mr. RUPPE. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. WHITEHURST).

Mr. WHITEHURST. Mr. Chairman, I rise in support of H.R. 200, which would extend the U.S. exclusive fisheries zone from 12 to 200 miles. The problem facing our domestic fishing industry is straightforward. Our privately owned commercial fishing fleets and boats are in direct competition with the much larger, government-subsidized foreign fishing fleets that are quite literally sweeping the ocean floor clean of all forms of marine life without regard for even the most elemental conservation measures. The Russians and other Soviet bloc countries have moved massive, sophisticated fishing fleets into the Atlantic, frequently operating within sight of our coastline from Maine to the Florida coast. The Cubans are building a large, modern fishing fleet which will soon move into the Gulf of Mexico, and the Mexican Government is now debating extension of its fishing jurisdiction out to 200 miles off its Pacific and gulf coasts. Off our Pacific coast fishing vessels from Japan and South Korea have already destroyed several species of fish.

Because of this overwhelming and concentrated attack on our valuable offshore marine resources, we are rapidly running out of fish. The cod and haddock have been overfished to the point of commercial extinction, just within the last 20 years. The yellowtail flounder, which is now the primary commercial fish stock in New England, has been so overfished that the National Marine Fisheries Service now indicates the overall catch may have to be reduced by 50 percent in some parts of the ocean. U.S. industry sources have made it quite clear that if such a reduction is ordered, foreign overfishing will continue with our domestic fishermen quite possibly the only group adhering to a fish catch reduction. Our industry sources also have indicated that such a reduction in the yellowtail flounder catch could well mean the end of the east coast domestic fishing industry as we know it today, an end that could come within our lifetime. Without regulation and a sound program of conservation, our fishing industry is in very serious trouble.

The Department of State's position on this issue is that the United States cannot take unilateral action in declaring a U.S. 200-mile fish conservation zone when the International Law of the Sea Conference is scheduled to debate this question when it convenes in New York City next spring. This rationale would be valid if it were not for the fact that even the State Department estimates it could take another 5 to 10 years for the 150 invited nations to agree on and imple-

ment a new treaty on fishing jurisdiction. However, the Studds-Magnuson bill is an interim measure that would be superseded by any agreement reached by the Law of the Sea Conference and subsequently becoming international law.

I share with Senator MAGNUSON and Congressman STUDDS the strong conviction that if we are to have any fish left for future generations, we must begin to protect them now, this year, to reverse the decline of our fish stocks and our fishing industry. I am pleased to say that this view is also shared by numerous groups, organizations and individuals from all parts of the country.

The 15-member Atlantic States Marine Fisheries Commission, the National Coalition for Marine Conservation, the Organized Fishermen of Florida, the Emergency Committee to Save America's Marine Resources of New Jersey, the 200-member Salmon Trollers Marketing Association of California, the Humboldt Fishermen's Marketing Association of Eureka, California, the Friends of the Earth, and many others support this legislation.

I urge my colleagues to pass H.R. 200 this afternoon, while we still have an industry and resource to protect.

Mr. RUPPE. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. RINALDO).

Mr. RINALDO. Mr. Chairman, I rise today in support of H.R. 200, legislation to establish a fisheries conservation zone off U.S. shores and to extend U.S. fishery jurisdiction from 12 to 200 miles. I urge my colleagues to vote in favor of this measure.

The House of Representatives this year will not consider more important legislation than H.R. 200. The last two decades have seen a precipitate decline in the U.S. fishing industry caused almost solely by the intrusion of foreign fishing fleets. On the Atlantic coast alone, domestic take of fish now equals only 50 percent, down from 92.9 percent in 1960. If this trend is allowed to continue, we may well see the extinction of U.S. fishing as a viable industry.

Let us look at the facts.

In the period since 1938, world landings have tripled; during the same period, U.S. landings rose in the aggregate only slightly, from 4.3 billion pounds in 1938 to 4.7 billion in 1973. What is more important, this 4.7 billion figure represents a decline from the 5.3 billion level reached in the 1960's at a time when demand for fishery products in the United States steadily rose. U.S. consumption of fishery products has nearly doubled over the past two decades. This increase in domestic demand, coupled with decreasing U.S. landings, have led to a tripling of U.S. imports between 1959 and 1973—from 1.75 billion pounds to 5.5 billion pounds. In 1950, the United States imported only 23.4 percent of its seafood; in 1974, imports were over 60 percent.

In short, the overall record is one of increasing dependence of the United States on the products of other nations' fisheries. In fish and fisheries products, our 1972 adverse balance of payments equaled $1.3 billion—up 318 percent from 1960.

It is an accepted fact that the U.S. fishing industry is in need of protection. No one contends that current conditions should be allowed to persist; the main disagreement centers about the means of providing that protection.

The alternative to the legislation we are now considering—an alternative supported by the White House and the Department of State—is that the United States should wait for an international, multilateral agreement to be approved by the United Nations Conference on the Law of the Sea. No one would welcome such an agreement more than I. But I take vehement exception to the false optimism of those who have implied that such an agreement awaits us in the near future.

I direct my colleagues' attention to the committee report accompanying H.R. 200:

> If previous law of the sea treaties are any benchmark, an effective treaty may be several years off. Three of the four conventions signed in 1958 entered into force between 4 and 6 years after signature in Geneva. The fourth, the Convention on Fishing and Conservation of the Living Resources of the High Seas, entered into force only in 1966, fully 8 years after it was signed.

The report states further:

> Presently, the United States is party to well over a score of international fishing agreements and periodically engages in bilateral and multilateral negotiations with foreign nations to restructure these treaties and to frame new ones which seek to conserve fish resources. Nearly all of the stocks of fish considered to be depleted or threatened with depletion are subject to these international agreements.

This is the background against which the House must view H.R. 200 and the Law of the Sea Conference. As one who participated in the 1975 Convention on the Law of the Sea, I was a witness to the disagreement and disorder characteristic of that convention. And I can assure my colleagues that an agreement from that body in the near future is unlikely, and an agreement from the 1976 talks in New York is virtually impossible without the impetus provided by enactment of this bill.

Let there be no doubt, Mr. Chairman, if the House shelves H.R. 200 now, we will not be asking U.S. fishermen to wait until March of 1976. We will be asking them to wait another 2, 4, or 6 years.

The second serious objection of those opposed to this legislation is that a unilateral declaration of 200-mile sovereignty will be met with retaliation by other foreign nations; that it will not be recognized by foreign nations who fish off our shores—and I was informed this morning by the Department of Defense that the Soviet Union will not recognize such a declaration—and that it will hamper final agreement of a multilateral accord by the Law of the Sea Conference.

In my judgment, enactment of H.R. 200 will not discourage the negotiators at the Law of the Sea Conference: It will make them show a little movement and work harder to reach a consensus.

As for the other objections to H.R. 200, I have not dismissed them out-of-hand, and I do not do so now. They are serious points the House must consider as it weighs this legislation. And I have been prepared to sustain these objections if proponents of a multilateral agreement would give me a compromise proposal. Yet, none has been forthcoming; and as a member of the Fisheries Subcommittee which reported this legislation, I have heard the almost unanimous support of the public for a 200-mile fishing limit. If we are to protect U.S. fishing interests and yet refrain from acting on a 200-mile fishing limit bill, we have the right to demand from the executive branch a feasible alternative.

Mr. Chairman, we have been given no such alternative, and a prudent assessment of the Law of the Sea Conference does not provide us with any immediate hope. H.R. 200 must be enacted.

I urge my colleagues to join with me in adopting this important and necessary piece of legislation.

Mr. RUPPE. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, fellow colleagues, today is a great day in American history and a great day for the State of Alaska, because we are going to enact a piece of legislation which is long overdue.

The Members may wonder what I have brought this box into the Chamber for. They will find it in the lobby a little later. It contains a net which the Japanese utilized to catch our salmon in a way that everyone of our scientists and biologists say we should not follow. It is a net made of monofilament. It never destroys itself. It is a 2-inch mesh, and this one net alone, if the Members can imagine, when found upon the beach after it had been cut loose contained one caribou, numerous ducks and over 100 salmon of all sizes.

The Members may ask how in the world that caribou got into the net. We do not know how old that net is, but we do know that it is an illegal method of catching fish. This is what the State Department has been consulting with Japan and allowing them to use.

I can tell the Members that the State of Alaska is tired of being ravished. We have the greatest fishing waters in the world, and yet we have seen our stocks decline to a point where many of them may not be able to be rehabilitated. I heard objections made in the debate that this bill would do irreparable damage to the negotiations which are going to take place in New York and Caracas, but let me remind the Members that Mexico's President came out with the same basic proposal, and we have been told that 13 other countries in Latin America are going to do it also, because they too recognize that we are dealing with a resource that is renewable if we take care of it. If we do not take care of it, the sea will not be able to feed this Nation or this world.

To give the Members an example, bottom fisheries off the coast of Alaska took over $500 million worth of fish, and while they did that the United States imported from that same country $250 million worth of fish which were our fish to begin with.

What we are saying in this bill is that it is time for Americans to speak up for Americans. It is time for Americans to take care of renewable resources that are along our coast, otherwise those foreign vessels would not be 12 miles off.

I can say to the Members that if this bill becomes law, the law of the Sea Conference in New York and possibly Caracas will finalize the negotiations they have been dragging their feet on.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Minnesota.

Mr. FRASER. Mr. Chairman, does the gentleman agree it has been the consistent position of the United States over recent years that the action of Peru, Brazil, and other Latin American countries, in unilaterally extending their claims of fishing rights to 200 miles, was a violation of international law?

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Maine (Mr. COHEN).

Mr. COHEN. Brazil, as a matter of fact, declared a 200-mile limit. Not only did our State Department recognize it, but they asked for an appropriation of a quarter of a million dollars for last year to reimburse the Brazilian Government to pay for the supervision of that.

Mr. FRASER. Mr. Chairman, will the gentleman yield further?

Mr. YOUNG of Alaska. I yield to the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Chairman, the gentleman is in error. We did not recognize their right to assert that kind of position.

Mr. COHEN. Mr. Chairman, if the gentleman will yield, I might add that on the committee last year, when the State Department did come before us to testify on another matter, this question was asked: How can you impose a 200-mile limit for one country and a 100- or 200-mile limit for Brazil?

The answer came back: We did not impose a 200-mile limit for Brazil. We came for the right to preserve and support a species.

And that is all we are asking for, the right to preserve our species up to 200 miles.

Mr. YOUNG of Alaska. In regard to our renewable species, as we should have been doing in the past, we will be doing in the future.

Mrs. SULLIVAN. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Chairman, there has been a misguided notion going around here that amendments adopted by the Merchant Marine and Fisheries Committee to H.R. 200 were suitable to the U.S. tuna industry, and therefore, they are supportive of this bill.

This, absolutely, is not true. The retaliatory effects of this bill will destroy this valuable industry.

Many people have been led to believe that because H.R. 200 was amended to exclude highly migratory species, in other words, tuna, that our tuna fishermen have nothing to worry about when they seek to fish within 200 miles of another nation's shores.

Nothing could be further from the truth. Only 6 percent of tuna caught off our coasts by U.S.-flag tuna vessels is caught within 200 miles. The rest—94 percent—is caught off foreign shores.

This amendment was adopted with the hope other nations would follow our course.

Well, they are following our unilateral action, but that is about it. For instance, Mexico has proposed an exclusive 200-mile economic zone, including tuna.

Mr. Chairman, trying to convince our distinguished colleagues that our tuna fishermen are protected by this bill, is a cruel hoax.

All of us here should realize that if this bill is enacted, the tuna industry—its 30,000 workers, its processing plants valued at over $800 million, and its vessels, which represent over 35 percent of the total value of the entire U.S. fishing fleet—will suffer an economic setback it will never recover from.

Mr. Chairman, there has also been an impression created that labor is supportive of H.R. 200.

I would like to read a recent telegram which was sent to most of our west coast colleagues by Mr. Harry Bridges, president of the International Longshoremen's & Warehousemen's Union, and by Mr. William Chester, the international vice president:

ILWU opposes any action by the House of Representatives to establish a 200-mile limit as proposed by H.R. 200. This bill will destroy the US tuna industry, which includes the entire membership of the ILWU Fishermen's & Allied Workers Union and would severely damage the income of longshoremen on the West Coast who handle tuna imports. Passage of H.R. 200 would cut the negotiating ability of the US delegation to the Law of the Sea Conference to be held in New York next March. Passage of H.R. 200 will contribute to the failure of the March conference because it will promote and trigger action by other countries to make unilateral declarations of sovereignty and be the excuse for countries to reject international cooperation and stimulate division and strife among the peoples of the world.

The ILWU represents the west coast of continental United States, Alaska, and Hawaii; has 50,000 members; and is one of the most powerful unions on the west coast. It also handles as much fish and fish products, perhaps, as any other west coast union.

In addition, representatives of several other labor unions appeared before our Merchant Marine and Fisheries Subcommittee when we held hearings on the west coast. They were all opposed to H.R. 200.

Mr. Chairman, in discussing this legislation before us here today I would like to say that, in essence, we are considering two very real and fundamental questions.

First. Are we going to live in a world where two-thirds of its surface is peacefully governed by international law and cooperation?

Or will we live in a world wherein its vast oceans are ruled by chaos and confrontation, due to jurisdictional disputes caused by unilateral action?

Mr. Chairman, the law of the sea negotiations must continue. By acting unilaterally in fisheries jurisdiction, as those who advocate H.R. 200 propose, we would be inviting much broader unilateral claims by other nations, thus paralyzing our efforts in attaining a comprehensive Law of the Sea Treaty, and would harm our own overall oceans interests.

For example, the Governments of Mexico and Costa Rica are watching our action—they have already proposed an extension of their jurisdiction. It is quite obvious that they are waiting for us to make the next move. They are not claiming a 200-mile fishery zone. To the contrary, they are claiming all, I repeat, all resources within 200 nautical miles of their shores.

Surely other nations, citing the United States as the example, will pursue this course of unilateralism. Some, we are told, will prohibit our naval forces from venturing within 200 miles of their coasts. Some may halt the navigation of our commercial tankers transporting valuable hydrocarbons to our country—if not halt them, then most assuredly impose outrageous fees on these ships which would make passage impractical, if not impossible.

I am sure you have thought about the confrontation and violence that will occur—not only in our 200-mile zone—but in the other 200-mile zones that will be set up—once we, the United States, made unilateral claims respectable.

The Mediterranean will be all but closed up—the Caribbean will be a puzzle even to consider. What is it—about 90 miles from Key West, Florida to Cuba?

Some nations, I am told, might even claim an exclusive 200-mile zone of sovereignty, to include control of overflight. As chairman of the House Aviation Subcommittee, the prospect of danger inherent in this type of claim is indeed frightening.

Only through international agreement can stability conquer strife in the ocean. Mr. Chairman, to many of us, the Law of the Sea negotiations have moved too slowly. This is true. But what we must remember is that we are embarking on what could be a milestone in the history of the world, perhaps, as important as the creation of the Congress of Vienna, and, our own Constitutional Convention—events where the efforts and cooperation of the many took precedence over individualist self-centered interests.

The Law of the Sea Treaty being worked on, would extend international sovereignty to the oceans of the world, which, incidentally, is two-thirds of the Earth's surface. Over 140 nations are involved in this effort. These are over 140 nations with diverse interests. All are trying to negotiate a single treaty which will benefit all humankind.

We must be deliberate in this effort, and we must be patient. And, above all, we must not put the future of this effort in jeopardy.

Furthermore, Mr. Chairman, I want to point out that, if we were to enact H.R. 200, there would be confrontation with nations who will not recognize our unilateral claims. And, believe me Mr. Chairman, I know what confrontation is. My own tuna fishermen have been lit-

erally beaten and imprisoned in foreign countries whose unilateral claims we did not, and still do not recognize. Their catches were confiscated, their boats seized, their lives threatened. Are we now going to tell these people, our people, that these foreign nations did the right thing? Will we condone violence on the high seas?

Mr. Chairman, this bill will destroy the U.S. tuna industry. It will destroy the jobs of thousands of fishermen, processors and canners. And, if we are worried about foreign fishing efforts increasing the price of fish in this country, just wait and see how much tuna will cost when we have to import all of it from Japan or some other foreign country. This high protein source of food is responsible for 25 percent of the fishery food products consumed in the United States—this industry is indeed one of the most significant fisheries in the United States, and should not be sacrificed along with our stake in the law of the sea negotiations by this unilateral action.

Finally, Mr. Chairman, I ask this great body to examine the other consequences of such a unilateral move. The cost—over $140 million for the first year alone, and as I mentioned before, our vital security and economic interests.

We have much to lose, and little to gain by enacting this bill. Thus, I ask for a "no" vote on H.R. 200.

Mr. RUPPE. Mr. Chairman, I yield 5 minutes to the gentleman from Maine (Mr. EMERY).

Mr. EMERY. Mr. Chairman, there is no piece of legislation that will be before this Congress this session more important to the State of Maine than this bill.

I have lived on the coast of Maine all my life. I have grown up with fishermen and fishing families. From the time I was born I have seen the Maine fishing industry shrink and decline. Anyone can visit my hometown today and see vacant buildings that canneries once occupied. One can visit with folks who have been a part of the fishing industry and who have made their living from fishing. These people are now watching their industry die. One can now see 45- and 50-year-old draggers rusting as they serve their last days at sea—a shameful sight to the once proud fishing industry.

What has caused this? Many things, but primarily this has been the reason: During the last 15 years or so the Georges Banks off the coast of Maine have been invaded by an armada of foreign vessels, vessels from Japan, from the Soviet Union, from Poland, from East Germany, and from several other countries. These foreign fishermen have modern vessels and modern equipment. They use nets with a weave so fine that practically nothing but the water itself can escape.

They catch all the fish—the edible fish and the fish that we rely on to breed. Some of these fish are essential in the food chain so that the fish we use commercially can exist and thrive.

In fact, the depletion has been so severe that some biologists have told us that the population of haddock, among other commercial varieties, is now so small that they may never again be able to reproduce in sufficient quantities to make them of significant economic interest again. This is sad.

We are suffering from shortages of a great many things in the world today. Oil is one of them, but another is food. We have the ability on the Georges Banks, off Alaska and elsewhere off the coast of the United States to feed not only ourselves but to feed a very large portion of the world if only this resource can be properly managed, if only we can learn to manage those resources in such a way that they can reproduce and provide a source of protein and profit for the people who depend on them.

We cannot wait any longer for international actions. We have to institute some kind of protection for our fishing industry now, whether it is at a Law of the Sea Conference or whether it is through our own actions here in Congress, because if we do not, this is going to be a moot issue. The fish are not going to be there to protect. That, I think, would be a very, very sad occurrence.

The problem of the Law of the Sea Conference has been that it is hung up on issues not directly related to fishing. There are only 20 or 25 nations throughout the world that are directly concerned with fishing, and until those nations can agree on a policy that will promote conservation and management of our resources, then the Law of the Sea Conference will produce nothing of value to protect the fishing resources. However, another major problem has been the Third World countries interested in the deep-sea mining issue. I believe that deep-sea mining considerations should remain entirely away from the question of protecting the fishing industry. Unfortunately it is not, and negotiations are hung up on that point. Until that question can be resolved, there will certainly be no significant progress with respect to fishing at the Law of the Sea Conference.

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. EMERY. Yes, I yield to the gentleman from Maine.

Mr. COHEN. Mr. Chairman, I want to commend the gentleman in the well for his efforts on the committee in seeing to it that this bill has now been brought to the full House.

I think we could stand here all day and cite many instances about how the fishing industry, at least along our coastline, is dying.

The most important statistic is that we have become the leading importer of fish in the world today. If we are going to reverse that trend, we have to take strong action, which I believe is in order.

If we can support Brazil in trying to preserve its species up to 200 miles offshore, it is unconscionable that we cannot do the same in protecting our own fishing industry. We should not have a double standard.

Mr. Chairman, the fishing industry in Maine—one of my State's oldest and most valuable industries—is dying.

It is dying chiefly because of excessive foreign fishing currently taking place on the Gulf of Maine. It may be difficult for those of my colleagues who come from inland States to understand the extent of the plight of Maine fishermen. There are only 10,000 licensed commercial fishermen in my State, but the value of their annual catch to Maine is about $200 million after processing and marketing. This makes the fishing industry the third largest industry in the State. Over 7,000 families derive their incomes directly from fishing. In most of the towns and villages on Maine's 2,500 miles of coastline, the local economy is based largely on the condition of the fishing industry.

But today, the little fleets of Maine trawlers and gill-netters find themselves locked in an economic war in which they are badly outgunned by vast flotillas of subsidized foreign fishing vessels. In Maine's adjacent waters, more than 20 nations search for and harvest thousands of tons of fish. Many of the foreign vessels involved in this harvest actually contain facilities in which the catch can be processed and packaged for the foreign—and the American—marketplace. These vessels, often owned and operated by foreign governments, move together in fleets and concentrate on small ocean areas in which stocks are found to be plentiful. In the darkness of night, these fleets appear as huge cities of light, but they have cast a pall over the Maine fishing industry that only action by this body can lift.

In order to catch the same amount harvested a decade ago, Maine fishermen must often remain at sea twice or three times as long as they did then. At times, they return to port with little or no fish at all. Maine's traditional fishing grounds are being fished out. They are being fished out by marauding foreign fleets which harvest the product of American coastal waters with no thought to conservation of our precious, but perishable fish resources.

In 1960, Maine fishermen landed 92 million pounds of groundfish—cod, haddock, hake, pollock, and ocean perch. In 1973, 13 years later, the amount landed was 41 million pounds, or less than half of 1960 amount. Similarly, in 1960, the Maine catch of sea herring—sardines—totaled 152 million pounds. In 1973, the amount was 37 million pounds—merely one-fifth of the 1960 total. The sardine canning industry in Maine has been decimated. My State—which once supplied two-thirds of the national sardine catch—now produces less than one-third. Two-thirds now are imported from foreign nations.

Mr. Chairman, the House must approve H.R. 200. The legislation is commonly called the 200-mile limit bill, but I submit its official title—the Marine Fisheries Conservation Act—more accurately describes the bill and its importance to American fishermen, especially those in Maine.

Without this bill and the new controls it will impose on foreign fishing fleets, the Maine fishing industry will not be able to survive. Hundreds, perhaps thousands, more Maine fishermen will be forced out of business. The American consumer will be forced to rely even more than he does now on foreign imports to satisfy his demand for fish. And an important source of protein-rich food—America's fisheries—may be destroyed forever.

Mr. Chairman, Maine's fishing industry cannot wait any longer for the protection the 200-mile limit will afford. They cannot wait to see what—if any—progress is made by international negotiators at the Law of the Sea Conference next spring. They have waited long enough. What we need now is action—action to save our fish and our fishermen. I urge the House to approve this legislation; our fishing industry deserves nothing less.

Mr. EMERY. Mr. Chairman, I thank the gentleman from Maine (Mr. COHEN) for his remarks, and I concur with them entirely.

In conclusion, I would like to correct some common misconceptions that I have heard mentioned on occasion.

First of all, we are not proposing a 200-mile territorial limit. We are not declaring U.S. sovereignty beyond the present 3-mile limit. We are merely talking about the right to protect our fishing industry—and that alone.

Second, there has been some concern that in some areas such as the Bering Straits, that the 200-mile limit would encroach on the territory of another nation. It would not. These limits would simply meet—in other words, simply "split the difference."

Finally, the proposed fishing limit can be enforced. Air surveillance, and cooperation between the Coast Guard and the Navy, would be sufficient to observe the 200-mile zone. The additional cost would be minimal.

The issue we face today is the very existence of our fishing industry and our ability to conserve and manage our marine resources for the benefit of the entire world. Mr. Chairman, I urge the passage of H.R. 200.

Mr. RUPPE. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. GUDE).

Mr. GUDE. Mr. Chairman, I am opposed to this bill.

But none of us who are opponents are claiming that this legislation establishes a 200-mile territorial sea. One can get all of the lawyers, pro and con, to debate forever the question of legal rights beyond our shores. Pure and simple, however, the passage of this legislation is more important as to its political impact around the world rather than to its legal effect. This bill is going to be interpreted as an opportunity for other nations such as Mexico and Costa Rica, which the gentleman from California mentioned, to go ahead and make further claims on the Continental Shelf. It will lead to more crisis problems around the world, such as in the case of the *Pueblo* and *Mayaguez*.

Those fisheries which are declining are a problem, but we are just adding to our problems if we pass this legislation.

Unilateral extensions of fishery jurisdictions in the past have led to or encouraged more extreme jurisdictional claims by other nations.

And since we are identified as a power and looked to as a leader in the world, our actions are a catalyst for other nations to follow suit.

Indeed, only 10 days ago agreement was reached in Montreal on a new multilateral agreement on the North Atlantic fisheries which moves in this direction. The agreement sets the allowable catch for 1975 at 850,000 tons to be reduced to 650,000 tons next year, a 23-percent reduction. At the same time the U.S. share of that catch will increase from 211,000 tons to 230,000 tons next year. This agreement continues a trend toward greater conservation in the North Atlantic region. The 1973 authorized catch was 1.1 million tons, meaning that this latest agreement will produce a 43.7-percent reduction from that level. Though this agreement involves only one ocean area, it includes most of the major fishing nations, and it serves as powerful evidence of the merits of a multilateral approach to the problem.

On the other hand, the taking of unilateral action on our part has a host of implications for our future oceans policy as well as for the course of negotiations at the Law of the Sea Conference, and most of them, as I have indicated, are negative.

In the first place, we have historically committed ourselves to multilateral decisionmaking on matters like this, and, in particular reference to oceans issues, unilateral actions have generally been bad precedents. A good example is the case of certain Latin American countries, notably Peru and Ecuador, which claim 200-mile territorial seas and have seized American fishing boats "trespassing" in those waters. Ironically, the precedent the Latin American nations cite is the claim of President Truman in Proclamation 2667 of September 28, 1945, which asserted U.S. jurisdiction and control over the natural resources of the contiguous continental shelf. The Truman proclamation did not mention specific limits and did not stake out territorial claims, but it nonetheless served as a rationale for the South American countries to stake out the 200-mile limit.

Passage of this bill would almost certainly be interpreted by other nations as justification for existing exaggerated claims or as license to assert new unilateral claims, many of which will be more extensive than our own and by no means in our interest. One could say, of course, that rationally our passage of H.R. 200 should not have that effect, that the limited nature of its claims as well as its subordination to any treaty eventually ratified should not provide any exaggerated incentives to anyone else. The fact is, however, that we are not dealing with other countries disposed to act rationally and calmly; rather we are faced with those who have already made policy decisions—or who would clearly like to—and are looking for any excuse to make them stick. Argentina, Brazil, Peru, Ecuador, Chile, Nicaragua, Panama, and Uruguay, to mention a few, have already claimed a 200-mile territorial sea, and as in the Truman case, unilateral action on our part, however limited, will surely lead to exaggerated claims on the part of others.

LEVERAGE

Second, we must remember that the Law of the Sea negotiations are not yet complete, and we retain a formal role in them. Final agreement in those negotiations will depend on numerous concessions by the various parties in order to reach compromise in the many areas under discussion. In order to achieve an acceptable compromise from our point of view, we must have something to concede—in return for other concessions—that we can afford. Passage of this bill could well destroy some of our needed leverage at Geneva next year by surrendering in advance something we should be holding out in order to secure concessions from others. Important topics, such as exploitation of the deep seabeds are far from settled and, in that case, the character of the International Authority to be created and the constraints to be imposed on deep sea exploitation are vitally important to us. Whether that part of the agreement is acceptable depends on what concessions we can wring from the underdeveloped nations—and we must offer something in return. Passage of this bill will surely hamstring those efforts by destroying that leverage.

NATIONAL SECURITY

Whatever form the Law of the Sea Treaty finally takes, it will also have a significant effect on our national security interests. Decisions on territorial waters, unimpeded passage through straits, submerged transit, to mention a few, are all crucial, and all are more likely to be made in ways consistent with our interests through multilateral action rather than unilateral initiatives on our part.

PRINCIPLE OF MULTILATERALISM

There is also an issue of principle at stake which I touched on earlier. Throughout the postwar period this Nation has firmly indicated its support for the United Nations and for multilateral solutions to international problems. We have frequently rejected unilateral efforts to solve problems, particularly in respect to the Law of the Sea, as when we rejected exaggerated territorial waters claims, and we cannot with consistency initiate a practice we have condemned in others, nor can we with logic expect other nations to honor our declarations if we ignore theirs.

ENFORCEMENT

This latter point raises the troublesome issue of enforcement. Attempts to calculate the costs of adequate enforcement of this bill make two assumptions from the beginning—only consenting nations are considered and only spot enforcement is contemplated. That is, no one has realistically suggested that we try to patrol the full fisheries zone claimed, but rather that we conduct spot checks in likely places at appropriate times. State Department estimates of the equipment needed for enforcement include 6 high endurance cutters, 4 medium range search aircraft, and 10 shipboard helicopters at a cost of $63.2 million for initial acquisition or reactivation, plus $47.2 million for annual operations. Thus we are talking about more than $110 million initially and almost $50 million annually for spot enforcement against only those nations who consent to our claims. A number of important nations, notably the Soviet Union

and Japan, can be expected to resist both a unilateral declaration and our attempts to enforce it, which will include boarding, inspection, arrest, and seizure, thus complicating our efforts, adding significantly to the costs, and creating major risk of an international incident.

MIGRATORY SPECIES

As our colleagues from the west coast can explain, strictly enforced 200-mile limits pose real problems for tuna fishermen. While this bill reserves migratory species for international management, we must again face the likelihood that unilateral action on our part will produce similar action on the part of others who will not make that reservation. Already our tuna fishing off the western coast of South America has become embroiled in those nations' unilateral claims and our rejection of them. Would not passing this bill remove our rationale for such rejection and thereby compound our difficulties?

ALTERNATIVES

In addition to the damage this bill would do if it is passed, there are alternative means of achieving our conservation objectives that render passage of this measure unnecessary. The administration has already begun planning a similar approach using bilateral agreements rather than unilateral action as its basis. This negotiation plan should result in:

First. Establishment of an effective conservation regime;

Second. Creation of preferential harvesting rights for U.S. fishermen to the full limits of their harvesting capacity, with the surplus allocated among foreign fishermen, thereby substantially reducing foreign catches;

Third. Implementation of a standardized system for collection of fisheries data, with information contributed from both foreign and domestic fishermen;

Fourth. Implementation of an allocation system which will substantially reduce foreign catches to allow U.S. fishermen on a phased basis to increase their catch to the full limits of their harvesting capacity, with the surplus allocated among foreign fishermen. I have already discussed the success of the recent multilateral agreement in Montreal;

Fifth. Introduction of more effective enforcement procedures;

Sixth. Implementation of satisfactory arrangements to resolve gear conflicts, and ensure adequate foreign compensation to U.S. fishermen in cases of negligence by foreign fishermen. With 11 bilateral fisheries agreements due for renegotiation next year, as well as regular meetings of six multilateral fisheries commissions scheduled, ample opportunities exist to achieve our conservation and fisheries objectives through multilateral channels rather than through unilateral action and all the burdens and complications that term implies.

CONCLUSION

In short then, this bill takes us down a dangerous road, one filled with profound dangers for our oceans policy, our national security and our own economic interests. No matter how one defines or interprets this bill, no matter how many mitigating details are added to it, it is still a unilateral bill that will be perceived by the rest of the world as making unilateral claims for the United States at the expense of other fishing nations. No matter that those claims may be just. No matter that they institute sound conservation practices. No matter that the Law of the Sea Treaty will likely reach the same point within a year.

Passage of this bill will violate our own longstanding principles, and it will launch us on a course of action we have rejected and condemned in others. From a pragmatic point of view, the whole rationale for this bill depends on the willingness of other nations to accept our actions and cooperate, and there is no doubt in my mind that that is not going to happen. Our unilateral action is going to provide an excuse for other nations to go farther, and we will have good cause to regret what we have done. For all of these reasons I oppose the passage of this bill.

Mrs. SULLIVAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SMITH of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 200) to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes, had come to no resolution thereon.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to announce that the purpose of having the committee rise, is simply to lay before the House a message received from the Senate which we need to pass in order to adjourn.

The House will proceed with the legislation before it as soon as this action is completed. The Chair will again recognize the gentlewoman from Missouri to go back into the Committee of the Whole.

PROVIDING FOR ADJOURNMENT OF CONGRESS FROM OCTOBER 9, 1975 TO OCTOBER 20, 1975

The SPEAKER laid before the House the concurrent resolution (H. Con. Res. 424) providing for an adjournment of Congress from October 9 until October 20, 1975, with the Senate amendment thereto.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendment, as follows:

Page 1, line 2, strike out all after "concurring)," down to and including "1975." in line 4 and insert: That when the House adjourns on Thursday, October 9, 1975, and when the Senate first adjourns after the final disposition of House Joint Resolution 683, they stand adjourned until 12 o'clock meridian, Monday, October 20, 1975, or until 12 o'clock meridian on the second day after their respective Members are notified to reassemble in accordance with section 2 of this resolution, whichever event first occurs.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

PROVIDING ADDITIONAL FUNDS FOR COMPUTER SERVICE AND MAINTENANCE FOR THE COMMITTEE ON APPROPRIATIONS

Mr. ROSE, from the Committee on House Administration, submitted a privileged report (Rept. No. 94–554) on the resolution (H. Res. 772) providing additional funds for the expenses of the Committee on House Administration to provide for maintenance and improvement of ongoing computer services for the Committee on Appropriations of the House of Representatives, which was referred to the House Calendar and ordered to be printed.

MARINE FISHERIES CONSERVATION ACT OF 1975

Mrs. SULLIVAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 200) to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentlewoman from Missouri (Mrs. SULLIVAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 200, with Mr. SMITH of Iowa in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. The Chair recognizes the gentlewoman from Missouri (Mrs. SULLIVAN).

Mrs. SULLIVAN. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. DOWNING).

Mr. DOWNING of Virginia. Mr. Chairman, I wish to urge once again your support for legislative action to extend fisheries jurisdiction for purposes of vital conservation of fishing stocks, of value domestically and to the world's population. I cannot speak too forcefully of the need for strong action by this Congress without further delay.

By now it must seem there can be little said or argued on the subject that has not already been said. The only evidence every passing day without legislative action, brings is of continued adverse impact of overfishing on a number of invaluable commercial species and hence on our domestic fishing industry which is dependent on them.

I have been privileged to serve my constituency and, I hope, the broader public for 17 years in Congress thus far. During that time, I have served on the Committee on Merchant Marine and Fisheries

and have followed very closely the issues of concern to this committee and to the welfare of our fisheries and our fishing industry in particular. Some of my colleagues may recall that I sponsored on the House side, the legislation which the 89th Congress passed—Public Law 89–658—by voice vote, I believe, which established our present contiguous fisheries zone of 9 miles beyond our territorial sea. This was in 1966 when we were first becoming aware of the tremendous impact the rapidly increasing fishing effort of foreign fishing fleets was having on the stocks of traditional importance to our domestic fishermen. At the time, we hoped this action would respond adequately to the problem, but do so in a limited and considered fashion cognizant of various international considerations and of the interests of our own distant water fishermen. I recall when we were considering that legislation, that then Assistant Secretary of the Interior, Stanley Cain, pointed out in the Department's official comment on my bill that the 9-mile extension of the fisheries jurisdiction of the United States would in most cases be of relatively little value in solving conservation problems.

A significant proportion of the fish stocks which now support U.S. coastal fisheries move freely from coastal waters to offshore waters. A conservation scheme which admitted of conservation measures in only a part of the area inhabited by these stocks and left exploitations of these stocks in other waters unregulated, would be a half measure at best, and would amount to vain regulation of American fishermen. Sadly, it seems Dr. Cain's comments have proved all too accurate. We should have gone further then and we would not have the problems we have now.

Extending to the 12-mile limit gave the U.S. fishing industry an additional 120,000 square miles of sole and exclusive fishing rights. We thought this was adequate, but we were wrong. Nobody envisioned that within a few years huge, modernized, government-owned foreign fleets would invade our bountiful waters and literally vacuum the resources out of the sea. According to a recent report of the National Oceanic and Atmospheric Administration in April of this year, 574 foreign fishing and fishing support vessels were reported operating off the coasts of the United States.

I have flown over these fleets on several occasions and it is a frightening thing to see. A typical foreign fleet will lie between 12 and 15 miles offshore and will extend more than a hundred miles with modern, efficient "mother ships" or processing vessels, located 20 to 25 miles apart, each being served by several dozen rather dilapidated trawlers. The trawlers compete with each other over the size of their daily catch. The mesh of their nets is much smaller than ours which allows them to capture practically all of the edible and commercial resources. No conservation methods are honored.

Last year, I chaired field hearings of the Subcommittee on Fisheries and Wildlife Conservation and the Environment in Hampton, Va. Just as was true in the other nine cities and States of this country in which this subcommittee held hearings on this issue last year, we heard further evidence of the need for unilateral American action to protect and conserve diminishing species of commercially important fish and to better protect the interests of our fishermen.

For example, James O. Douglas, Jr., commissioner of marine resources for the Commonwealth of Virginia, testified that 1973 landings of river herrings were but 37 percent of the previous 10-year average; of scup but 16 percent; sea bass only 57 percent; and butterfish only 15 percent. Mr. Douglas noted that all four of these fish, important to coastal commercial fishermen, are largely harvested beyond the present fisheries zone of 12 miles. This contrasted starkly with comparable statistics for fluke whose 1973 landings were near the 10-year average; this is because the majority of fluke landed in Virginia are harvested within the contiguous fisheries zone. Other compelling evidence was provided by the eminent Dr. William Hargis, director of the Virginia Institute of Marine Science and chairman, National Advisory Committee on Oceans and Atmosphere, and in Dr. Hargis' words:

> In 1965 before the foreign fleets moved into the middle Atlantic bight—the area extending from Cape Hatteras to Cape Cod and called Virginia Sea by Capt. John Smith—the Virginia fisheries landed 25,000 tons of scup, black sea bass, flounder, and river herrings. Now, after the heavy onslaught of fishing by foreign fleets totaling up to 225 vessels, the aggregate catch of these species in 1973 was only 5,000 tons. This, despite agreements with the Soviet Union, Poland and Romania addressed specifically to protection of these species. Something better is needed. American fishermen deserve better. The American offshore fishery cannot long survive if conditions are not improved. The world community, confronted with an even worsening protein deficiency, cannot afford the wastage caused by overfishing.

Mr. Chairman, I submit there is abundant evidence before us of the damage occurring daily under the present law and practice, and of the improvement which can be expected by acting to extend jurisdiction and hence rational, scientific management capability to coastal and anadromous fish stocks.

We are constantly warned that unilateral action by the United States with respect to extending fisheries jurisdiction would jeopardize the on-going law of the sea negotiations and hence would not be in the best interests of the country. We have heard, and patiently, the advice and judgment of the State Department and our delegates to the Law of the Sea Conference on this question. They advanced the very same arguments when we extended the fishing limit to 12 miles, back in 1966. Frankly, I am not persuaded by their pleas. The Law of the Sea Conference is very important and it probably offers the best long-run prospects for a lasting, stable resolution of a number of perplexing and complex international issues concerning oceans and marine jurisdictions—issues of which fisheries is one of the most important. But let us be realistic. The U.N. Law of the Sea Conference has completed three sessions and is commencing its fourth session in New York in March. Conference President Amerasinghe of Sri Lanka had publicly stated that he had little hope of drafting a new treaty governing the use of the sea at the last Geneva session—and he was proved right. In fact, he had indicated that the 148 participating nations may require as many as three more sessions in order to obtain a signed treaty in "1975 or 1976." Well, 1975 is already here and 1976 is just around the corner and there has been little, if any, progress. Any international agreement appears to be years away. Any treaty that may eventually be signed by participating nations' representatives must then be ratified by some minimum number of them before entering into force. Ratifications of international agreements can easily require 4 to 10 years, or more, before a sufficient number of nations have acted. The situation "in the water" is far too serious for responsible people and responsible nations to defer action on that kind of time scale.

I fervently believe we must move aggressively on both fronts—international negotiation and national action—at the same time we will not be alone in that course. In January last, Norway passed an enabling act giving the Government authority to enforce specified no-trawling zones along the coast of northern Norway. And of course over 40 nations already have unilaterally extended claims to territorial seas beyond 3 miles and/or fisheries zones beyond 12 miles. Just last week Iceland extended its fishing zone to 200 miles and last Tuesday Mexico extended its zone to 200 miles. There is much to be gained and very much to be lost by U.S. failure to act immediately.

This bill, H.R. 200, and others like it have a powerful appeal in providing authority for effective national action on an interim basis. Whenever a new law of the sea is negotiated, signed, and ratified by enough nations to enter into force, our interim action automatically would defer to such new international law. In fact, U.S. response to ultimate law of the sea progress would be much advantaged by action on legislation at this time because such legislation automatically can constitute enacting legislation for that hoped for new law of the sea.

For all these reasons, I hope this House will act and act speedily by passing this interim legislation extending our fisheries jurisdiction as set out in H.R. 200.

Mr. RUPPE. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. LENT).

Mr. LENT. Mr. Chairman and colleagues, every foreign observer of the American system of government has noted what short memories we Americans have. When we consider this bill during our Bicentennial, we seem to have forgotten that our forebears were harvesting the sea long before they reaped broad plains of wheat, and that when it came time to negotiate an end of our War of Independence with the British 194 years ago, one of the most pressing issues at the Peace Conference was American access to the North Atlantic fisheries. We insisted on our historical rights, and we maintained them.

I rise to join with my colleagues in

asserting that here and now is the time to remember—and to act. On a clear day on Long Island, I can look from the beach, out on the Atlantic and see Polish and Russian trawlers vacuuming up the sea. My colleague from Alaska sees their treasure under the sea being carried off to Koshiro and Vladivostok instead of to Kodiak and Juneau.

American housewives are now paying premium prices for the 60 percent of our fish consumed that is imported, prices that are higher than for prime cuts of steak, but these fish were in many cases caught just 13 miles from our coastline.

We must act to protect our dwindling seafood supply. We cannot talk about providing marine protein to the world's hungry if we do not assure ourselves reasonable access to protect and harvest our own fisheries. Our talk of conservation is meaningless unless we have something to conserve and a clear fishing zone off our shores in which to conserve it.

We are told by the opponents of this legislation that we must await action by the fourth Law of the Sea Conference in March, and that our unilateral action here today will prejudice these negotiations. I do not agree. This law does not even take effect until July 1, 1976, after the next conference. And the bill provides that any treaty resulting from the Law of the Sea Conference ratified by the Senate will supersede this law. And it is not unlikely that our action in Congress will go a long way toward promoting general agreement on a 200-mile fishing zone.

There is tremendous interest throughout the land in this bill. Much of it is generated by commercial fishermen, consumers, and game fishermen. They are each suffering, in their own way, the ill effects of our inaction, while foreign fishing fleets have been permitted to continue their mammoth harvesting operations that have seriously—perhaps irreparably—depleted a significant number of fish species.

We cannot ask our citizens to wait for even further exhaustion of our fisheries stocks—particularly when our reason for delay is grounded on the illusory hope for an international agreement that has thus far eluded three international conferences.

Mr. Chairman, we have often troubled ourselves over our national defense perimeters, and at times in our past, they have been extended to the Asian mainland, to the Anatolian plateau, to the Arctic Circle, and to the shores of the Baltic. I suggest that, like charity, our economic defense perimeter ought to begin at home. I urge passage of H.R. 200.

Mr. RUPPE. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. GILMAN).

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. Chairman, I rise in opposition to the enactment of H.R. 200, the Marine Fisheries Conservation Act of 1975.

While I am opposed to the passage of H.R. 200 at this time, I am not unsympathetic to the plight of our fishing industry and have in the past been critical of the callous operations of foreign fleets fishing with sophisticated equipment off our coastlines depleting our fisheries stocks. It is because of the awareness of this problem that I have long maintained the need for a controlled economic zone extending outward from our territorial waters.

Most of us support the concept of a controlled fishing zone off of our shores. So too does the administration support that proposition. That concept is not at issue today. What is at issue is how best and how to most effectively bring about such control and conservation.

In seeking the most effective method for bringing about this offshore regulation and the need to protect our diminishing fish stocks, we must not lose sight of other ocean interests of vital concern to the United States that would be jeopardized by any unilateral action by our Nation.

H.R. 200 presents us with a choice in how best to proceed in developing a U.S. oceans policy. Are we to opt for the rule of law by negotiating a comprehensive international agreement or do we strike out alone, adopting this measure and thereby subjecting ourselves to economic retribution and conflict?

Mr. Chairman, the Law of the Sea Conference, involving 140 nations, is on the threshold of bringing about a workable international agreement regulating coastal fishing. Therefore, let us not act too hastily today, thereby jeopardizing the prospects for achieving a successful comprehensive Law of the Sea Treaty in the negotiations now in progress and the painstaking work of the Law of the Sea Conference. If we adopt a 200-mile law, it would lead other nations to claim unilaterally a 200-mile territorial sea and other competing jurisdictional claims to the oceans damaging to our vital interests in naval mobility or the movement of energy supplies. Passage of this bill would lead to a chain reaction of claim and counterclaim with the further potential for protest and confrontation. Instead of providing a rational, peaceful order for the oceans that a multilateral agreement could produce, the measure before the House would provide instead an impetus for increased unilateralism and continued disorder and crisis on the oceans.

The Law of the Sea Conference is in the process of bringing about a comprehensive restructuring of the law of the oceans. A moving force for such change arises out of the desire of coastal States to protect their fisheries. There is virtual consensus at the Law of the Seas Conference that coastal states shall have exclusive sovereign rights over fish within a 200-mile economic zone with adequate provision for conservation and management. Accordingly, it is reasonably certain that our natural fisheries objectives can be best achieved through the framework of international law and not as part of a unilateral action that would subject us to confrontation and sanctions for violation of international law.

Should H.R. 200 pass, we will also be faced with serious questions of enforcement both in terms of costs of that enforcement and relations with those nations fishing off our coasts, most notably Japan and the U.S.S.R. A conservative estimate for the first year cost of this legislation, not including the potential economic deficit due to a loss of distant water fisheries, would be approximately $140 million over present funding.

We can best achieve the objectives of this legislation by patience and refraining from voting for this type of unilateral action—action that could jeopardize major security, economic, and political interests of vital concern to the United States.

Accordingly, I urge my colleagues to oppose this bill.

Mrs. SULLIVAN. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. VAN DEERLIN).

Mr. VAN DEERLIN. Mr. Chairman, the committee's work on this bill has been orderly, efficient and fair. Moreover the staff report in this bill is one of the most factual I have ever seen prepared on a controversial piece of legislation.

Other speakers have addressed the House on what they see as an economic interest, and an economic peril to their communities—a feeling with which anyone can sympathize.

For my home community of San Diego and southern California in general, this is not just an economic issue. It is an emotional issue as well. The tuna fishing fleet grew in my hometown from the very small beginnings in the twenties by men who went out against the sea—most of them sons of Italy and Portugal—in small craft going for distances of 3,000 to 5,000 miles in pursuit of a fish which goes from one place to another, highly migratory. This is an industry which had built itself up to a multimillion dollar industry by the mid-thirties, a triumph of self enterprise and free enterprise, unassisted by Government in anyway. It is an industry which in wartime turned over its entire fleet to the U.S. Navy. These vessels, being fast and particularly well refrigerated, were useful to the Navy in supply missions across the far Pacific. This industry, in the postwar years, experienced some dreadful competition from Japan, which enjoyed great assistance from the United States because of efforts that this country was properly making to restore Japan's postwar economy. Finally, in the fifties this industry began to be put upon by Latin nations to the south, trying to keep them 200 miles at sea, seizing their vessels in defiance of all international law, charging huge license fees and imposing outrageous fines. Ecuador's most recent demand was $30,000 for a 40-day fishing fee. Here is an industry which has been swimming upstream all its life.

It is also an industry which provides some of the finest citizens in my area. One of the happy sights before Christmas each year is to see these vessels sailing back in time to celebrate the holiest of holy days with their families after months-long voyages. This is a people, this is an industry very important to us in southern California.

I ask you not to tell these nations to the south that they were right in im-

posing a 200-mile limit, in seizing our property and imposing fines and license fees. Do not start down that road. Do not put our stamp of approval on piracy.

Mr. RUPPE. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. BOB WILSON).

Mr. BOB WILSON. Mr. Chairman, I want to associate myself with my distinguished colleague, the gentleman from San Diego (Mr. VAN DEERLIN), the previous speaker, in his remarks about the tuna industry in San Diego.

I realize that the committee has worked hard on this legislation. There are real considerations underway and very real prospects of eventually having a 200-mile limit or a 200-mile economic zone, but this is not the time for it.

I have been a member and a delegate of the Law of the Sea Conference in Caracas and in Geneva. Yet here we are, the leader of the free world, one of the greatest nations in the world, that has been encouraging some 140 other nations in the Law of the Sea Conference to get together and talk over the problems of jurisdictional rights and other implications of a 200-mile limit. If we pass this legislation, we will be, in effect, pulling the rug out from under these Law of the Sea negotiations. We will be telling those other 140 nations that we have only been kidding in our desire to try to come out with a Law of the Sea. We are going to act unilaterally if we pass this legislation, something that we have been condemning other nations for doing. We need a Law of the Sea. We need to have regulations propounded that would establish conservation practices and make other nations live up to those conservation practices across the world. We need to be able to fish within the limits of other nations as well and to allow other nations at times to fish within ours, if they use proper conservation practices.

This is truly one of the most important pieces of legislation that this House has ever considered. I am just sorry that we are considering this here in the closing minutes before we go off on recess. Because it is so important I think the entire House should be hearing these arguments and listening to the reasons for and against this legislation.

But, I implore my colleagues not to pull the rug out from under the Law of the Sea Conference. We have another Conference set in the spring of next year in New York, and I am positive, having attended those previous Conferences, that a meaningful Law of the Sea can be developed which will accomplish many of the purposes of this proposed legislation. Do not let this country sabotage the fine work that has been accomplished thus far by 140 other nations at the Law of the Sea Conference.

I urge my colleagues to oppose this legislation.

Mrs. SULLIVAN. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Chairman, for some time now, we have received repeated reports from Law of the Sea sessions that progress was being made on the subject of economic zones.

For some time now, we have received repeated reports from Law of the Sea sessions that a breakdown in negotiations would delay further consideration on the subject of economic zones.

I, for one, Mr. Chairman, feel that international agreements, in some cases, serve the best intended purposes. I feel, however, that Congress has been extremely patient in waiting for appropriate action to be taken on this subject by our negotiators at the Law of the Sea Conference. I challenge the assertion that action by Congress on this matter will cause international confrontation. I am afraid that the United States has become shy and overly concerned with the prospect of international criticism in taking necessary protective steps as regards our fisheries.

I fail to see the logic in statements to the effect that unilateral fisheries legislation will have a harmful impact on U.S. shrimp fisheries. The legislation before us today provides for negotiations between nations to protect the historical fishing areas our shrimpers have used for years off the coasts of various nations.

With the recent announcement by President Echeverria of Mexico that his country will establish an exclusive economic zone extending 200 miles, the Congress must act to make safe an economic zone for the protection of shrimpers and other fishermen.

It is a good assumption that other nations bordering Mexico will move to establish like economic zones. As this occurs, there will be a substantial increase in the amount of foreign shrimp fishing within 200 miles of the United States, since unless H.R. 200 is enacted into law our shrimp resources would be the only ones relatively open to all nations. This year's bad season coupled with increased fishing of the area is not a stab I intend to put to the shrimpers in the name of proper international negotiations.

If we check the record, we will find that the Congress is the only protection our fishermen have had. Administrative policy toward fishermen is and has been weak and of little benefit to the fishermen. Programs enacted by Congress to benefit fishermen are often rescinded, while at the same time ongoing assistance to foreign sources related to fisheries is commonplace with our Government.

The Congress has an obligation to continue protection of the U.S. fishing interest.

The majority of the commercial and recreational fishermen in the Gulf of Mexico are strongly in favor of extending U.S. fisheries jurisdiction and in placing whatever management of gulf fisheries should become necessary at the lowest possible level so that they themselves can participate in the process.

Passage of H.R. 200 will not ruin the U.S. distant-water shrimp fisheries—and it will help the much larger U.S. Gulf of Mexico coastal shrimp fleet which, in 1974, landed over 92 percent of the shrimp by volume, and more than 85 percent of the catch by dollar value in the United States.

Furthermore, whether or not we extend our fishing zone unilaterally, it may well be increasingly difficult, at least for a time, for U.S. distant-water shrimp fishermen to work out agreements like the United States-Brazilian agreement because many Latin nations and other lesser developed countries—LDC's—for nationalistic reasons unrelated to fisheries—are establishing and will establish fisheries zones in which developed nations will not, for a time, be permitted to fish. LDC's attitudes at the Law of the Sea Conference and other United Nations meetings clearly indicate this.

Some claim they worry that the Gulf of Mexico shrimp fishery will become overfished. There is no denying that, for example, both Cuba and Mexico are already planning and building large numbers of vessels to fish for various species in the gulf and in Latin American waters where we now fish—including waters which will become part of our fisheries zone under extended jurisdiction. Surely it is more desirable to have the increase in the fishing vessels off our coast be U.S. vessels.

And if we have jurisdiction over that valuable shrimp resource, we will be better able to protect it against overfishing than we could without clearcut jurisdiction.

When extended jurisdiction does become the case for the Gulf of Mexico shrimp fishery, it will also mean that we could, in a few years, become less dependent on foreign imported shrimp than we now are. And with imported seafood representing over $1.6 billion in balance-of-trade deficits, it seems we should look seriously at the advantages of domestic-caught and processed seafood products over imported products if the domestic products could be available.

Mr. Chairman, in the light of recent international activity in this area, I feel the Congress has an obligation to act on a matter which has been ignored for too long and pass H.R. 200 in the best interest of our Nation's fisheries.

Mr. RUPPE. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. I think it is nice that so many of our colleagues can join with the Committee on Merchant Marine and Fisheries at its expanded committee meeting this afternoon to discuss this important international issue. I really am dismayed at the dual quality of the arguments being made against this impressive legislation, which includes among its authors the gentleman from Maryland.

The arguments advanced against this bill do seem to have a dual quality. There is an attractive ring to some of them and yet there is also a sort of repulsive illogic. Rather like a dead mackerel lying on the beach; its beautiful scales glitter and shine, and yet at the same time it stinks.

The proponents and opponents in this House are divided between those whose fingernails are carefully manicured and whose striped pants are very carefully pressed, those who, since 1958, have been attending conferences and cocktail parties in South America, Geneva, and other places. And, on the other hand, there are those whose nails are dirty with grime and who have worked very

hard for a living trying to catch fish from the unyielding sea. While all those international conferences have been going on, millions of tons of fish have been sucked up the pipe into foreign vessels and literally stolen from us.

Mr. Chairman, I am pleased to join in supporting this legislation, but I do want to say that while I congratulate my committee chairman, the chairman of my subcommittee, and the gentleman from Massachusetts (Mr. STUDDS) for the work they have done, I only regret that my colleague from Maryland (Mr. GUDE), of prosperous Montgomery County, was unable to support this legislation.

As I listened to his remarks I did recall that his district is in much closer proximity to the State Department than it is to Ocean City, Md. I have called the mayor of Ocean City with the personal request that my colleague's passport be revoked henceforth.

Mr. Chairman, anyone keeping a scorecard of the names of Members appearing on the various colleague letters in support of and in opposition to this bill, H.R. 200, can appreciate the colorful distribution of differences in philosophy and party identification manifest in this dividing issue. Yet, despite these differences, it is evident that we are as one on the need to see that fish are preserved; that the problems of our coastal fishery industry are great and many; and that the area for effectively preserving our coastal water stocks must be 200 miles. Where we disagree, the real focus of this debate, is on the means we are to use to claim this fisheries zone or 200-mile limit which everyone acknowledges will be instituted in time, anyway.

The means which this legislation recommends is rightfully called unilateral. However, a sense of urgency over the state of our marine economy and a mature knowledge of recent history warrant that it is the just, the needed, and the only course of action our Nation can take if we are serious about preserving the sovereignty of our waters and preventing the deterioration of our fishing industry.

The opponents of this so-called unilateral action hold that we must not opt for the 200-mile limit until the International Law of the Sea Conference comes to a final agreement. They hold that despite a tentative agreement for the 200-mile extension, we must wait until the "links and gears of international law" permit the final conferees to grace the document with their delicate signatures. But I submit that those links and gears have rusted. I submit that if we wait until those habitual conference participants of so many different nations, God bless them all, that if we wait until they finally decide to call it a decade and go home, our Nation's fishermen can wave goodby to our fish, and our fishes' fish, as they are finally hauled from our shores by some Russian, Polish, Japanese, or other foreign fishing boat.

We cannot afford to wait. We cannot afford to vote our Nation's fishermen into the position of Hemingway's proverbial "Old Man and the Sea," watching helplessly while the world nibbles away at our sea's national heritage.

The Ocean Education project of Washington, D.C., possesses research facilities and oceanographic studies which conclude that the biomass in the northwest Atlantic has shrunk by 50 percent in the last 15 years. They note that while our Nation has made landmark efforts to conserve these areas in order that they yield larger and future catches of marine life, other nations have not. Foreign nations fish in our waters, foul our nets, pollute our shores, and rip off our more technologically constrained fishing industry with impunity. Since 1938, our national fishing catch has risen by a fraction while foreign nations have tripled their yields. They can do this, because we have operated on the assumption that in keeping our traditional "freedom of the seas," 12-mile limit, we will also see preserved the traditional manners nations of the past have shown regarding each others' unwritten territorial boundaries for commercial usage.

Unfortunately, times have changed. If we are to prevent further depletion of the ocean's fishing stocks by many of the greedy foreign commercial interests interested in robbing our national economy, we must act decisively. That calls for a decisive passage of H.R. 200. It will signify our intent that our Nation is not to be exploited against the backdrop of an International Seas Conference which moves along too slowly at a time when our Nation's vital interests are at stake.

Over 100 nations have informally accepted the 200-mile limit and have already instituted it as part of the Law of the Sea negotiations. Our country should ride the crest of this trend rather than be swept by it.

I urge the passage of H.R. 200.

Mr.. RUPPE. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. BURGENER).

Mr. BURGENER. Mr. Chairman, I rise in vigorous opposition to H.R. 200, not only for the parochial interests of my home county of San Diego, Calif., but for the general interests of the entire Nation.

To my good friends and colleagues who represent the eastern seacoast, the Pacific Northwest, and the great State of Alaska, their concern and interest in the well-being of their very important fishing industry is understandable, indeed, commendable, although I fear the long-range effects of this bill, if enacted into law, will prove detrimental—even to their States.

I speak now for the tuna fishermen, and for those who build and supply the tuna fleet, the canners, processers, retailers—and ultimately, and most importantly, the American consumers who consume tuna in ever increasing quantities. It is reasonable in price, at least so far, high in protein value, and highly acceptable to the American palate.

Parenthetically, as delicious and nutritious as lobster, crab, salmon, and many other species are—I do not see too many schoolchildren trudging off to school with a lobster or a crab sandwich. But the tuna sandwich or salad is an everyday staple in lunch box, lunch counter, restaurant, and at home.

Tuna is a migratory fish that travels the waters of the world. The supply is not inexhaustible—and the worldwide tuna fishery must be most prudently managed in order to prevent its depletion. That is why 14 nations in the Atlantic Ocean have banded together to form the ICCAT, the International Commission for the Conservation of Atlantic Tuna. That is why eight countries that border the vast Pacific Ocean have joined together to form the IATTC, the Inter-American Tropical Tuna Commission.

The purpose is to conserve the species, have fair competition, and maintain a healthy industry without bloodshed, violence, and the things which may well follow the "staking out" of territorial claims in what have historically been the high seas.

The tuna industry has had firsthand and very painful experiences with countries that have unilaterally claimed exclusive 200-mile fishing jurisdiction. Only Ecuador and Peru have aggressively enforced an exclusive 200-mile limit. Let me tell you how it has worked, and as I do, perhaps it will become understandable why none of the 22 countries belonging to the Atlantic or Pacific Tuna Conservation Commission believes in or will support a 200-mile exclusive concept.

In addition to American tuna boats having been seized 190 miles from Ecuador, in addition to the crews being beaten and jailed, the American taxpayers have paid out some $6 to $7 million in fines to recover the boats, crews, and catch. The tuna industry has recovered this amount, although belatedly, from the U.S. Government. But they have not had a free ride. They have lost some $3 million in these seizures which they cannot recover from anyone. In the case of Ecuador, when you add the Galapagos Islands, which is part of Ecuador, you end up with a "de facto territorial sea" of some 600 miles into what we believe are international waters.

The argument has been raised that we should not worry about the effect of this action on the tuna industry because "the bill specifically exempts tuna." But, what is the actual situation?

There are no significant tuna catches within 200 miles of our shores—but there are massive catches to be had within 200 miles of other countries. What good does it do to exempt tuna from regulation in areas where there are no tuna? None, Mr. Chairman.

View this for a minute from the standpoint of some other country which does have a 200-mile access to tuna fisheries. They see the United States unilaterally claiming a 200-mile limit for the fish products which are located within our coastal region. They see the United States attempting to fish in open waters less than 200 miles from their shores. What are they to do? They will claim their own 200-mile limit for tuna and ignore the fact that we, in our measure, exempted a species not found in our waters anyway.

In summary, Mr. Chairman, I do not claim this bill will result in the total demise of the American tuna industry. But I do claim it will be seriously damaged. I do claim this bill will destroy the 14-nation Atlantic Tuna Commission,

and the 8-nation Pacific Tuna Commission—and, therefore, make the conservation of the resource an impossible dream. And these nations have worked 25 years to build this cooperative conservation and management venture.

Who will lose in the end? The American consumer, as always, with tuna growing scarcer and the price going up.

With deference to those who most sincerely support this measure, I urge its defeat.

Mr. RUPPE. Mr. Chairman, I yield 9 minutes to the gentleman from California (Mr. McCLOSKEY).

Mr. McCLOSKEY. Mr. Chairman, I think we do a terrible thing today. It is not that the goals of this bill are not laudatory, because in Caracas and Geneva, and next spring in New York, we are hoping to achieve these same goals through international law.

But I would like to take the brief time that I have today to point out to the committee that when we take this action we are clearly violating international law.

I have waited in vain for any arguments from the committee after its months of study of this issue to suggest that our action is in accord with international law.

Let me cite to the Members from some authorities that are not unknown, faceless representatives of the Library of Congress who are mentioned here today but not named.

This is Philip C. Jessup, former judge of the International Court of Justice. Mr. Jessup said this on September 30:

I do not know of any responsible and qualified person who maintains that such a claim—

And that is this extension of fisheries jurisdiction—

would be in accordance with international law. Nor can the advocates of the proposed law take the position that the United States should abandon its historic position as a defender and upholder of international law, sinking to the level of those other countries which we denounce as lawbreakers.

This is Louis B. Sohn, professor of international law at Harvard Law School, probably one of the most outstanding authorities on international law in the world. He said this on September 25, 1975:

There is no question in my mind that such an extension would be invalid under international law and would violate the rights of other States. It would be in particular inconsistent with our various agreements on fisheries, especially the Northwest Atlantic Fisheries Convention. Such countries as the Soviet Union in the Atlantic and Japan in the Pacific could validly argue that their rights have been grossly violated by such action of the United States. Such legislation would also constitute a violation of the United States obligations under the Convention on Fishing and Conservation of the Living Resources of the High Seas, concluded in Geneva in 1958.

Louis Henkin, Hamilton Fish Professor of International Law and Diplomacy, said this on March 5, 1975:

In my view, H.R. 200, if enacted, would not be consistent with the obligations of the United States under existing international law. It is established, and the International Court of Justice has recently reiterated (in the Icelandic Fisheries Case) that a coastal State cannot extend its exclusive fishing jurisdiction into the high seas at will, against all.

The Court in that case said this:

The concept of preferential rights is not compatible with the exclusion of all fishing activities of other States. A coastal State entitled to preferential rights is not free, unilaterally and according to its own uncontrolled discretion, to determine the extent of those rights.

Let us look back at the title of H.R. 200. What does it say? It says:

A bill to extend * * * the jurisdiction of the United States over certain ocean areas * * *.

It is understandable perhaps after Vietnam and Cambodia that we might feel some desire to demonstrate our manhood again and plant the flag out 200 miles and unilaterally extend the jurisdiction of the United States to 200 miles offshore. But what do we do when we do this? We abandon both our world leadership and the difficult and painful progress we have made toward international law.

In 1958 we signed a treaty, a Convention on Fishing and Conservation of the Living Resources of the High Seas. We said that all States have the right to engage in fishing on the high seas subject to their treaty obligations and to the interests and rights of coastal States, as provided for in this Convention.

We signed other conventions at that time in 1958, and we said:

The term "high seas" means all parts of the sea that are not included in the territorial sea or in the internal waters of a State.

The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas is exercised under the conditions laid down by these articles and by the other rules of international law. It comprises, inter alia, both for coastal and non-coastal States:

Freedom of fishing; * * *.

How can it be said that these conventions of 1958 and our treaties with other nations can be abrogated by an act of Congress?

But if there is any question about what the law is, let us look at our own Committee on International Relations Report issued yesterday, October 8, 1975. At page 9 of that committee's report, entitled "Potential Impact of the Proposed 200-Mile Fishing Zone on U.S. Foreign Relations," appears the heading: "H.R. 200 Violates U.S. Treaty Obligations."

U.S. treaty obligations are the supreme law of the land, just as is our Constitution. Should the House of Representatives for a laudable purpose violate the treaty obligations of the United States? Is that a valid thing for us to do?

There are only three ways to settle disputes, through the ballot box; through a court of law or by combat.

We have seen a long history in the world of seeing wars ensue from violations and incidents arising on the high seas, from the *Lusitania* to the *Panay* to the *Pueblo* and to the *Mayaguez*.

We have some states claiming jurisdictions of 3 miles, some states claiming jurisdictions of 12 miles, and some states claiming jurisdictions of 200 miles. If we claim a jurisdiction of 200 miles in violation of international law, what do we say to the Chinese or the South Africans if they claim a territorial right out to 200 miles? We would have the same situation as we had with the *Pueblo*.

We claimed then that nations were limited to a 3-mile territorial sea. The North Koreans claimed a 12-mile limit. We tested that by sending the *Pueblo* 8½ miles off the North Korean coast.

In the Cambodian incident involving the *Mayaguez* there was a similar situation.

There would be a tremendous benefit to our national security if we could negotiate a treaty whereby all nations agree on a 20-mile economic and fishery conservation zone and a 12-mile territorial zone.

However, let me go to what is at stake for this Nation if we lose the International Law of the Sea Treaty after seeking for so many years to attain that treaty and the rule of law which is such a basic cornerstone of our own heritage and governmental philosophy.

At the present time we have the right of passage through straits. Our nuclear submarines travel underwater through straits. Our aircraft travel overhead above the seas of those straits.

Let us assume that some of the nations along the straits through which we would supply Israel, for example, through Gibraltar or over the Italian or Portuguese coastal waters, assume those nations claim a 200-mile territorial sea, and deny us flight over or passage through the straits. What does that do to the national security of the United States?

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. Yes, I yield to the gentleman from California.

Mr. LEGGETT. The gentleman is not under the impression that this bill has anything to do with the territorial sea, is he?

Mr. McCLOSKEY. I am saying that we have bound ourselves by treaty to recognize territorial seas in the past and if we take action that violates that treaty, we have no right to say to anyone that there is some sort of difference between fishing and territorial rights.

We signed the 1958 Convention which states that fishing rights extend to all but the territorial seas.

How can we contest some other nations' position if we have gone to 200 miles in violation of our territorial sea treaties? Why should other nations not claim that their territorial sea goes 200 miles as well?

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. Yes, I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I think the gentleman is absolutely right.

I am looking here at the Law of the Sea Convention on Fishing and Conservation of the Living Resources on the High Seas, of which the United States is a signatory.

It says:

The measure which the coastal State adopts under the previous paragraph shall be valid as to other States only if the following requirements are fulfilled. . . . (c) That such measures do not discriminate in form or in fact, against foreign fishermen.

Of course, the convention on the high seas simply guarantees freedom of navigation, freedom of fishing, period.

I note in this bill, in one of the purpose clauses, paragraph (8) on page 12, that one of the purposes is not to authorize any implement to, or interference with, lawful activities on the high seas "except with respect to the protection and conservation of fisheries resources as provided by this Act."

I think the act itself admits its violation in that section.

Mr. McCLOSKEY. I thank the gentleman for making that comment.

The CHAIRMAN. The time of the gentleman from California (Mr. McCLOSKEY) has expired.

Mr. RUPPE. Mr. Chairman, I yield 3 additional minutes to the gentleman from California (Mr. McCLOSKEY).

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman.

I just wanted to commend him on what I think is the finest statement we have heard here this afternoon.

As I have listened to this debate, it is clear that there are sectional interests in this country that go both ways. Some people would be hurt by this bill and some would be helped. That leaves the rest of us in a position to do what is right, and the gentleman from California (Mr. McCLOSKEY) has been explaining what is the right and prudent thing to do in this situation.

Mr. McCLOSKEY. Mr. Chairman, I thank the gentleman. I am not so sure that if the Representatives of the fishing States would look to this area, they might not observe that there is a great deal more to gain if we can proceed to an international treaty protecting our fisheries than by seeking to do so unilaterally.

The three greatest types of fish for the U.S. fishing industry are tuna, salmon, and shrimp.

As to shrimp, 20 percent of them are caught within 200 miles of other countries, and many of them outside of 200 miles of our shores. Most of our tuna are caught within 200 miles of the shores of other countries. The salmon are migratory, leave our coast, and migrate hundreds of miles into the Pacific.

Up until now we have had a bilateral agreement with the Japanese that they will not engage in fishing for salmon beyond a certain point.

The value of those three fishery industries is tremendously greater than the fish within the coastal zone that will be protected by this.

We have seen U.S. fishermen range across the world taking whales and now we are seeking to protect the whales and to protect the seals and to protect the other animals of the ocean, but they can only be protected by international treaty.

It is understandable that those who want this bill are impatient and dismayed by the slow process that is taking place in current international negotiations. But, consider our own progress in the Congress where the country has been asking that we come up with a national energy policy for over the past 3 years. More than anyone else we should understand that both the negotiating and legislative processes are slow and difficult. The legislative process cannot be, and should not be, speeded up at a time when there is such a vast range of differing interests as exists with respect to oceans of the world.

To stop at this point when we are within a year or 2 years of success in achieving an international treaty, would be almost unconscionable for this Nation which has more than any other country in this world so much to lose if we are unable to achieve an international law of the seas.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, one of the problems with the convention the gentleman is referring to is that all of the States we are concerned with are not members. The Soviet Union is not a member, Poland is not a member and Chile is not a member and neither is Panama.

Mr. McCLOSKEY. But the Soviet Union is a member of the High Seas Convention.

Mr. LEGGETT. Of the Law of the Sea they are, but not of the 1958 convention which the gentleman referred to.

Mr. McCLOSKEY. Let me correct the gentleman, they are not a member of the Fisheries Convention, but of the High Seas Convention. They have a treaty right against us under that Convention.

Mr. RUPPE. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. BIESTER).

Mr. BIESTER. Mr. Chairman, for years the United States has steadfastly advocated the negotiation of comprehensive, equitable international agreements to regulate the exploitation of the world's ocean resources, protect the delicate ocean environment upon which our lives ultimately depend, and ensure our national security by minimizing the risks of international conflict. The Law of the Sea Conference, conceived during the 1967 United Nations General Assembly, has sought to address these complex questions. The resulting negotiations have been lengthy and arduous. Understandably, this has created deep concerns and frustrations with the entire Conference and proposals to take unilateral action in areas where dangers to American interests seem particularly immediate.

H.R. 200 is one result of such frustration. Its major provisions—extending the U.S. exclusive fishery zone from 12 to 200 miles and creating a management resources program governing American and foreign fishermen within the zone—are intended to save from extinction fish stocks which have been severely depleted due to extensive overfishing. Over the past decade, fleets of sophisticated foreign fishing ships—veritable floating factories—have reached into waters where traditionally independent, hardy, but smaller American fishing boats once sailed nearly alone. H.R. 200 seeks to protect these fishermen from their foreign competitors and allow the depleted stocks to grow through marine resource management. The Law of the Sea Conference, it is argued, has been too slow in addressing the fishery problem, and the danger to marine life off the American shores is too imminent to accept further delays.

But the political and economic costs of enacting H.R. 200 clearly outweigh its intended benefits to the American fishing industry. By unilateral action on the fishery issue, the Congress will undercut progress which has already been made at the Law of the Sea Conference in this and even more sensitive areas.

First of all, the prospects of achieving a uniform, internationally accepted code governing ocean fisheries would be irrevocably damaged by enacting H.R. 200. It is true that progress at the Law of the Sea Conference has been slow. But last spring, delegates did, in fact, reach consensus on the basis of an agreement to create a 200-mile economic resource zone which would include fisheries. These negotiation drafts will serve to write formal texts at the next conference in New York this coming May. But if the United States today declares its exclusive 200-mile fishing zone, what will keep other nations who have thus far shown considerable restraint from following our example? Once a series of individual unilateral claims have been enacted, it is unrealistic to expect them to be set aside by an eventual international accord. The good prospect for achieving an orderly, agreed upon international accord on fishing will have been replaced by an uneven, conflicting mosaic of fishing zone claims. Furthermore, there can be no mistake that the targets of this legislation are the Soviet Union and Japan. Are we prepared, with little or no justification in international law, to attempt to enforce the provisions of H.R. 200 against their—and others'—adamant opposition?

Second, once the fishery question has, for all intents and purposes, been removed from the arena of international negotiation, issues which are much more critical for American national interests would likely be declared "nonnegotiable." The reason is clear: Unilateral extensions of jurisdictional claims in one area have repeatedly encouraged similar claims in others. Let us examine but two of these areas.

Of paramount interest to American national security is maintaining the right of free transit through international straits. If, for example, our nuclear submarines and surface navy were unable to transit freely through the Straits of Gibraltar or the Straits of Malacca, our ability to resist local aggression or quickly and secretly maneuver our strategic forces would be severely hampered. Yet Spain, Indonesia, and numerous other nations bordering on international straits are presently considering the declaration of their full national sovereignty over these important passages. In other words, the U.S. Navy could be denied the mobility necessary to its role in our national defense. The straits is-

sue is, as we all know, a major issue before the Law of the Sea Conference. If, as many fear, agreement on the fishery question—for which an international consensus has substantially developed—is short-circuited by legislation such as H.R. 200, we cannot expect a satisfactory resolution to negotiations on the even more important straits issue.

But questions of national security do not stand alone in challenging the wisdom of H.R. 200. The Members of this House have been inundated with statistics relating to the economic importance of protecting our coastal fisheries. I cannot contradict these figures. But while our coastal fishery resources are of great value, so, too, is that wealth of mineral resources which lies on and beneath the ocean floor. I am thinking of the petroleum deposits which can help meet our energy demands of tomorrow, as well as numerous other minerals which can serve our industrial needs as well as those of the developing nations. Our Nation is unquestionably the best-prepared for undertaking exploration and eventual exploitation of the deep sea mineral deposits. And under proposals already announced by the Secretary of State, the entire international community would share in the benefits of these operations. But once again, a comprehensive international agreement is a prerequisite to the full and efficient use of these resources, not to mention the necessity of guaranteeing the security of the enormous private and public investments which may be required. Again, any legislation which jeopardizes the entirety of the Law of the Sea Conference must, by necessity, jeopardize our future access to the ocean's mineral resources.

Other issues presently before the Law of the Sea Conference, such as international cooperation to combat pollution and protect the rights of scientific research on the ocean, are also of significant importance to this country.

The Law of the Sea Conference, then, must be regarded as a "package deal" which concerns several areas of long-range importance to our future generations. We cannot impatiently jump the gun on the fishery issue without compromising our chances for success on all of the others. The advocates of H.R. 200 argue for some illusive immediate relief to our fishermen. I believe, however, that the interests of these rugged Americans, whose courage and pride we have all admired, will ultimately be better served by a comprehensive Law of the Sea Treaty which will be in the common interest of all our people.

For these reasons, Mr. Chairman, I cannot support this legislation.

Mr. RUPPE. Mr. Chairman, I yield 5 minutes to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Chairman, I support H.R. 200 and would like to comment briefly on some of the points that its opponents have made.

First, it has been suggested that action on this bill would disrupt the Law of the Sea Conference. I do not think that will happen. The bill specifically provides that it will be superseded by any agreement coming out of the Law of the Sea Conference; it is a virtual copy of the position of the vast majority of countries at the conference; and it provides for reasonable access to our fishery resources by other nations. If the fishing issue could be isolated the position reflected in this bill would be adopted overwhelmingly at the conference. But the Law of the Sea Conference, confronted with the demands of the developing world for a "new world economic order" is deadlocked over other issues and will remain so far years. The question is whether we face this issue now or after several more years of deadlock at the Law of the Sea Conference. The Law of the Sea Conference has great potential and it deserves the best attention that our Nation has to give. But by acting on this bill, we only remove a noncontroversial issue.

Second, it has been suggested that this bill might be in violation of international law. What the bill's opponents fail to recognize is that international law is dynamic nad flexible. It is formed largely by custom and gradually evolving rules of international practice. This bill reflects an international trend toward coastal state jurisdiction over its offshore fisheries. Much of the developing world already has 200-mile fisheries zones. The Congress has recognized this trend, for example, by passing the Brazil Shrimp Agreement whereby U.S. citizens pay for the right to fish in Brazil's 200-mile fisheries zone. Action on this bill then will only reflect the developing international trend.

Third, it has been suggested that if the United States acts to extend its fisheries jurisdiction, other nations will extend their jurisdiction indiscriminately and thereby close straits and hamper commercial and military transit. But closing straits and hampering navigation have not been accepted developing trends in international practice.

Moreover, the vast majority of nations have a vital interest in insuring that the world's international straits are free for navigation. This is particularly true for countries such as the Soviet Union which are vitally dependent on straits just for access to the oceans.

Finally, I think it is important to act on this bill now in order to preserve a world food resource. As long as no nation has jurisdiction over a resource, conservation and management are impossible since a reduction in one nation's effort will merely mean that competing nations get a larger share. The only effective way to stop the rapid depletion of the world's fisheries is to give coastal nations the jurisdiction to manage them.

This bill is well drafted and moderate; it virtually tracks the world's position on fisheries at the Law of the Sea Conference; it reflects a developing trend in international practice; it allows reasonable access by other nations' fishermen; and most importantly it will provide an opportunity to manage one of the world's most important food resources.

I ask all Members to join me in supporting H.R. 200.

Mr. RUPPE. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, one of the great dangers of being a speaker following the committee members is the fact that almost everything has been said. We have had legal scholars, and they will argue the legal points. It will not be my intent to speak for the lawyers. I will let the constitutional lawyers present their case. But I should like to speak very forcefully on behalf of the fishermen of northern California.

As the Members can understand, there is a little division of opinion, on this issue, between the Representatives of northern and southern California, the Members will understand why some of us are looking at the possibility of dividing the State. I am saying that somewhat in jest, but sometimes we need to refer to it in order to put this difference of opinion in full perspective.

Let me say this to my colleagues. The issue is not a security issue. The issue is clearly a conservation issue. I speak for the fishermen off the northern coast of California. The Members saw the gentleman from Alaska, Mr. YOUNG, come down here to the well and show you the Japanese net. I have seen large Russian dragnets off of the coast of Oregon, up in Coos Bay, North Bend, Oreg., and off our coast, all with undersized mesh. These massive vessels that the Russians use as they fish off the coast of California are triple tandem, a big dragnet that scoops up everything with undersized mesh, which are illegal under California law. They are followed by a processing vessel, and then followed by a refrigerated vessel that stores the catch and takes it back to the Soviet Union, or to Poland.

I want to appeal to my colleagues to support this legislation for one simple reason. If we can unite behind the executive branch and the Congress on the conservation question, then I believe we can unite to resolve the tuna problem and protect the security concerns of the United States and the U.S. Congress through their people's Representatives as we work together to resolve those basic international issues pending before the International Law of the Sea Conference.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. I thank the gentleman for yielding.

I want to acknowledge that the gentleman in the well was the first man in this House to offer a 200-mile bill. I know he is very pleased to see us come up with a bill in final form, and we are pleased to have his support for the final version.

Mr. DON H. CLAUSEN. I am grateful to the gentleman for his gracious remarks.

I want to bring the Members up to date on what is happening in California. This Mailgram message comes from Dennis Grotting of the Fishermen's Marketing Association from Eureka, Calif. I read as follows:

California's coastal fishing resource is being depleted by a large fleet of Russian and Polish fishing vessels. State Department

agreements with each country are inadequate and unenforceable. For example, National Marine Fisheries scientists say the sustainable yield of hake is 150,000 tons. Yet negotiated agreements call for the following quotas: Russia, 150,000 tons; Poland, 40,000 tons. Scientists estimate the total catch of hake in 1975 to be 225,000 to 300,000 tons. Salmon and rockfish and sole are also caught but not reported.

I have seen these Russian vessels weaving in and out of the currently established 12-mile limit at night. Is it any wonder that our people on the northern coast of California, our fishermen and their wives, are pleading with us to do something in the Congress to get the Russians off of the backs of the American fishermen and out of the pockets of the American consumer.

Mr. Chairman, the fact that we are debating H.R. 200 here on the House floor today is a significant milestone. Today's debate represents the culmination of nearly 10 years of hard work by many people.

For over a decade, the fish that inhabit our coastal waters have been attacked by foreign fishing fleets with a fervor that exceeds any previous effort in man's history.

We have seen the whales of the world virtually rendered extinct by man over the past two centuries. This was done slowly with limited supplies of what we consider "modern technology."

Today, fish species off our shores are threatened with the same fate in a fraction of the time through the all-out use of every "modern" device employed by foreign fishermen who take our fish to protect their own coastal fishery.

This situation cannot be tolerated any longer. We may be too late already, but we must act now if we are to have any hope of conserving a precious resource.

From the very beginning, American fishermen have recognized the need to adopt practices that reflect an understanding of maintaining fishery stocks for the future. Their continuing livelihood has been based on this practice and they have been faithful to it.

In California, for example, our fishermen began limiting net mesh size in the 1930's—voluntarily. They did so because they were recognizing a decline in production from a growing number of fishermen and boats.

Trawl fishing in California only began in 1876 so it took only about 50 years for the effects of the fishery to be felt in the numbers of fish.

California's fishermen continued to adhere to voluntary regulations on their own and it was not until 1947 that the California Legislature took action to establish a mesh size. When it did, after a good deal of experimenting in conjunction with the Washington State Department of Fisheries, it set a 5-inch mesh size for trawling—the size to which our fishermen were already using on their own.

No fisherman I have spoken to has ever indicated any doubt that restrictions on mesh sizes and seasons are highly beneficial to the continuance of their income and the insurance of future availability of fish for the marketplace.

Into this setting came the Russian fishing fleet in the early sixties. The Russians used larger, more powerful boats than the Americans. They used larger nets with very small mesh sizes. They very literally took every fish that happened to be in their path.

The Russians were fishing 6,000 miles from home and remained at sea for 2 years at a time. The fishing boats traveled with a factory ship that did every conceivable kind of fish processing at the time of the catch. In order to be fairly economically efficient, their catch had to be huge. Only by stripping the sea bare could they be successful.

People familiar with Pacific coast fishing have told me that today the Russian catch of hake, for example, is about the maximum sustainable yield for that particular species. At the same time, our fishermen are catching hake and several other nations, including Poland, are also catching hake. There is only one possible result from this situation and that is an end to hake off our shores.

If these foreign fleets are allowed to fish off our coasts at the current rate, then all our efforts toward conservation are lost. And, equally as important, we will be dependent upon foreign sources for the fish we eat.

We are facing a serious, determined challenge. One that the Congress cannot back down from. We must act.

The past decade has seen a number of possible solutions advanced, but nothing has come of a single one of them. Now it is time to pass H.R. 200 and establish a 200-mile fishery and marine conservation zone off our shores. If we do so, we can guarantee the protection of our coastal fishery forever. If we do not, we can guarantee its ultimate loss.

The foundation of H.R. 200 is the creation of a zone of protection. It is important to note at this point that the zone is a conservation zone and is not an extension of the territorial sea.

The creation of this zone maintains the concept of the "freedom of the seas" which guarantees the retention of traditional navigation passageways. No one argues that we should extend our territorial jurisdiction since our only goal is the protection of our fisheries and other marine resources off our coastline.

Extension of the zone, for which we have already established a precedent with our 12-mile limit, is the only way we have to be able to enforce conservation practices.

The plans for managing the zone are authorized under the bill and provision is made for planning on a regional basis. Each region will have a regional council to consist of representatives from the fishing industry, the States in the region, and the public at large.

The basis for the plans will be the principle of "optimum sustainable yield." This concept, which is being so readily violated by foreign fleets today, recognizes the requirements to utilize our resources to the greatest extent possible, but without risking their ability to replenish themselves.

The legislation recognizes the desirability to continue to manage our resources, and will enable us to more closely control this action. At present we have no means by which to control the number of fish being taken by foreign fishing fleets. Under this bill, these boats will be licensed by the United States and will be made to abide by the regulations established by the councils.

Surveillance and enforcement will be under the jurisdiction of the Coast Guard.

H.R. 200 does not interfere in any way with existing fishery agreements. All the agreements to which the United States are a party to will remain in effect until their negotiated expiration dates. Attempts, however, will be made to renegotiate these agreements where ever possible to have them comply with the provisions of H.R. 200.

The bill also provides that the United States will continue to work within the framework of the Law of the Sea Conference to work toward an international agreement.

The bill we are advocating here today is a highly realistic and practical approach to the fisheries problem because it recognizes the three fundamental types of fish and their relationship to the international fishing industry and to the nations which have a stake in protecting them.

Coastal species are those which will live generally in a limited area of the ocean. These species are primarily fished by the nation whose waters they inhabit and that nation will naturally have an interest in conserving them to the greatest degree possible. Under the philosophy adopted in H.R. 200, each nation would be able to see and obtain tangible rewards for adopting conservation-oriented rules and regulations.

Anadromous species are those fish that live most of their lives in the ocean, but swim up fresh water streams to spawn and die. These are the most fragile species since they must be able to survive their marine life and return successfully to the river of their birth and swim upstream to find a suitable spawning site.

The United States spends millions of dollars each year to insure that those anadromous fish who spawn in our streams are able to get upstream and will find spawning areas when they get there.

This takes a tremendous amount of work and research to be able to do the job and, in my judgment, we are only now beginning to reach an adequate level of effort to retain this resource.

But these fish range as far away from our Pacific coast as Japan. They are gone for 5 years before they return. And, they return at predictable times. All of this makes them relatively easy game for fishermen.

We are the ones who invest our time and money to protect the anadromous fish, we should have a role in protecting them. H.R. 200 will give us that opportunity.

Finally, migratory species—of which tuna is the most controversial today—should be regulated under international agreements, not by one nation alone. These fish are never found in the same location. They travel extensively and no nation can really claim them so no nation should control them.

Mr. Chairman, as I said in testimony before the Senate Commerce Committee in 1966:

Our fishermen cannot pass laws. Our fishermen cannot stop the invaders of their traditional fishing grounds. The responsibility for any such actions lies with us. And, Mr. Chairman, it is a responsibility that we must accept. We must act with dispatch for our fishermen are faced with the serious implications of this problem right now with every indication that it will grown in scope.

The problem has grown in scope even more disastrously than we could have imagined at that time. We have got to recognize this urgency and respond now.

Mr. Chairman, I, personally, the Congress, the country, and in particular, the fishermen, their families, and the people I represent on the north coast of California are deeply appreciative of the sensitivity, responsiveness, and fairness of the Merchant Marine and Fisheries Committee in their efforts to advance this legislation, the 200-mile marine fisheries conservation zone, through the House of Representatives and hopefully into law.

In particular, I want to thank the very able and talented chairman of the committee, the gentle lady from Missouri, (Mrs. SULLIVAN). She has been firm in her resolve to bring to the floor a bill that is in keeping with the domestic interests of our fisherman and consistent, on an interim basis, with our official negotiating position at the International Law of the Sea Conference. She has been fair in the handling of participants, witnesses and we, the Members of Congress, most directly involved in advancing this legislation.

Without her factual evaluation of this complex and controversial matter we would not be this far along on the legislative road to enactment. She has performed beautifully in so many ways and we shall be eternally grateful for her extraordinary cooperation on this crucial and vital matter.

My colleague from California (Mr. LEGGETT), the chairman of the subcommittee has moved positively and objectively to help us achieve our desired goal. He has proven to be an articulate advocate for the 200-mile limit and worked diligently to bring about a final legislative product that protects American interests and accommodated the concerns of many who had earlier reservations. To you, BOB LEGGETT, I am thankful for the exceptional display of cooperation you have extended to me and all Members involved, and proud of the bipartisan attitudes displayed under your leadership. You have performed magnificently.

To my friend and working partner (Mr. STUDDS), the gentleman from Massachusetts, with whom I have shared the principal cosponsorship responsibilities, I want to state strongly for the RECORD how brilliantly he has performed as the lead author of H.R. 200.

Serving as we do on the Committee on Public Works and Transportation, I came to realize during conversations that our congressional districts on the east and west coasts, respectively, had great similarities—one of them being a long and beautiful coastline and another being a very vital fishery area that is extremely important to the economic well-being of our people and to the Nation.

Together we have coordinated contents and strategy for nearly 3 years. Someday, GERRY, we should write a book on the establishment of a marine fisheries conservation zone off the coasts of our United States. It would be an extraordinary historic document and certainly a best seller.

You have demonstrated time and again a sense of determination and dedication to our common objective that is exceptional and extraordinary by any standard.

Your leadership in the committee and among your fellow Democrats has dovetailed superbly with efforts of Mr. FORSYTHE of New Jersey, Mr. YOUNG of Alaska, Mr. PRITCHARD of Washington, Mr. COHEN and Mr. EMERY of Maine, Mr. LOTT of Mississippi, Mr. RUPPE of Michigan, and myself as we strategized, met with President Ford and other leaders in an effort to protect and represent all interests of the United States.

Without a coordinated bipartisan effort our objectives could never be realized.

GERRY STUDDS, you have my everlasting admiration and respect as a skilled legislative craftsman, a brilliant legal scholar, and a dynamic and dedicated Congressman who fights for his district, is sensitive to the needs and concerns of his colleagues and works for the overall conservation interests of the people of the United States.

To the ranking Republicans of the subcommittee, Mr. FORSYTHE of New Jersey, my everlasting gratitude is extended to you for permitting me to be an ad hoc or ex-officio member of your committee.

Your fairness and management skills plus your unselfish devotion to the 200-mile limit cause will record you in history as one of the champions of marine fisheries conservation in our Nation and the world.

To all the members of the committee and the Congress, words will never adequately express how deeply I appreciate your patience, consideration, and understanding of my north coast of California constituents' plight.

In the future, history will vindicate the support you have given to our efforts. Your children will enjoy the renewable resources of the sea with each passing generation and you will have their undying gratitude.

Mr. RUPPE. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. BELL).

Mr. BELL. Mr. Chairman, I rise in strong support of H.R. 200.

It is time for the United States to take a strong position.

We have allowed foreign fleets to do terrible long-term damage to the fisheries off our shores.

For year after year, the State Department said it would work out an international agreement to halt the rape of the seas.

The State Department has failed utterly.

In the meantime, the vast fleets of Japan, the Soviet Union, Poland, and South Korea have systematically destroyed our fisheries.

One of our most valuable national resources is being plundered by these foreign fishing fleets.

There is already a general international consensus that 200-mile fishery limits are necessary.

Thirty-seven coastal nations have established exclusive fishery jurisdictions beyond 12 miles.

These were all unilateral actions.

The National Advisory Committee on Oceans and Atmosphere recently recommended that the United States immediately declare a 200-mile economic resource zone.

It is time for the United States to declare a 200-mile fisheries limit.

From this position of strength, we can negotiate a worldwide arrangement.

It is not only the fish that are endangered.

There is great public interest in the United States for action to save the great whales from extinction.

The vast whaling fleets of Japan and the Soviet Union are now launching their deadly harpoons into the last of these huge mammals.

H.R. 200 would severely curtail whaling in the North Pacific Ocean, where the Japanese and Soviet whalers have killed more than 12,000 whales in recent months.

The Soviet whaling fleet brazenly carried out its bloody business just 50 miles off the California coast this summer.

And Japanese whalers are greedily eyeing the California gray whale, which is the State marine mammal.

It seems that the only language the Japanese and Soviet whalers understand is forceful action.

They have ignored repeated appeals by the United Nations for a 10-year moratorium on whaling.

The House of Representatives has endorsed the 10-year moratorium.

Passage of H.R. 200 will not only halt the destruction of our coastal fisheries, it could help save the great whales from extinction.

Mr. RUPPE. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of H.R. 200, as one who represents a coastal district, and who has sat through many hearings on this bill, I believe I know what it does and what it does not do. And I am convinced that passage of this bill by the House would be in the best interest, not just of my constituency, but the entire Nation.

Indeed, an argument can be made that more than our national interest is at stake here, because the basic thrust of this bill is one of international concern, involving the interest of the entire world community.

The coastal waters of the world are the last great resource of this planet. They harbor 95 percent of all life in the sea. They have an enormous capacity for production when conditions are right. But when conditions are wrong, it is a desert. Man has only recently had the capacity to deplete this resource. It is being de-

pleted in two ways—through pollution, and through overfishing.

What the opponents of this bill are really saying is that we should allow this destruction to continue unabated until such time in the future as all nations are able to agree on a solution. What I am saying is that we cannot wait. The Russians and Japanese and others are apparently going to continue this vacuum cleaning of the seas until the victim dies or until we stop them.

Pass this bill today and you will put them on notice that we mean it when we say we are committed to the protection of this resource. Pass this bill and you will have something more than words to take to the next Law of the Sea Conference; you will have a tool for enforcement of our pledge. Pass this bill and save the most promising food resource on this planet.

Let us continue to try to reach international agreement. But in the meantime, let us save the resource.

I urge a "yes" vote.

Mr. RUPPE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in support of this legislation. I certainly support the efforts that the individuals on the committee and in this Congress have made to preserve the fishing stocks of the United States. I would say, however, I am somewhat troubled by one provision of the legislation and do hope that later on the conferees of Members of the House will consider the effective date which will be established in this legislation.

As we all know the effective date for this particular bill is July 1 of next year. There is some possibility that on the Senate side there may be a provision inserted in the legislation that would make the effective date somewhat later in the year, perhaps the end of the year, perhaps December 1, 1976.

Let me say I think the effective date is a very important provision in the final legislation. It has been suggested by the State Department and others that this legislation may be violative of international law. There are other questions raised by the State Department as to whether this legislation does not undo the work that has been undertaken in the Law of the Sea Conference. It has been strongly hinted or suggested that the Law of the Sea Conference may effectively develop an overall convention next year. It is also the opinion of the State Department that if the session in New York early in the year is not successful, there is a strong likelihood of the possibility that a second session would be forthcoming next year and that the second session would produce results in the form of a convention or international arrangement which we could all support.

I think it would be very important and profitable if indeed the Law of the Sea Conference was effective in developing an international convention. This would solve the problem we face in this case while at the same time meeting many of the reservations that have been expressed by the State Department and, I might say, expressed very strongly by the President of the United States.

So I hope that the committee and the conferees later will take into consideration any Senate provision whereby the effective date of this legislation would be extended into late 1976. I believe it would meet many of the objections of the President, many of the legitimate questions raised by the Secretary of State, and it would be a very profitable accommodation as far as the implementation of this law is concerned.

Mr. Chairman, I rise in support of H.R. 200, the Marine Fisheries Conservation Act of 1975. This legislation is the culmination of intensive subcommittee and full committee markup in the Merchant Marine and Fisheries Committee. The committee analyzed and deliberated over each and every section of this bill over a period of weeks. Much of the impetus for this legislation came from Mr. STUDDS, although, of course, a number of changes have been fashioned. It has been fashioned into a comprehensive fisheries conservation and management program, which will provide the means to insure that our fisheries are restored and remain viable for generations to come. This management machinery will be needed whether or not the Law of the Sea Conference ever reaches a conclusion. We are, in effect, implementing prior to ratification what appears to be world consensus with respect to fisheries.

H.R. 200, as reported by the committee, embodies as its cornerstone the concept of optimum sustainable yield. This management concept is based upon an understanding of the biological ability of our fishery resources to reproduce themselves and still withstand a reasonable amount of harvesting. The level at which a fishery can be harvested without triggering an irreversible decline in resources is called the maximum sustainable yield. The concept of optimum yield permits the fisheries managers in establishing quotas to reduce the catch below maximum yield or to increase the catch beyond maximum yield on a temporary basis as circumstances warrant. The key to optimum yield is, therefore, flexibility.

A second fundamental concept embodied in H.R. 200 is that of sharing excess stocks. This is a cornerstone of the U.S. negotiating position in the Law of the Sea treaty. Contrary to the misconceptions that have been circulated regarding this legislation, H.R. 200 does not preclude foreign fishing off our shores. Our recognition of this obligation to share the resources with the world community in effect places the United States in the forefront of worldwide efforts to make available the maximum amount of protein that can be safely harvested from the sea. Clearly, American fishermen cannot harvest the resources within 200 miles of the United States up to the level of optimum yield for most species. Foreign nations will be permitted to continue to fish as they have in the past but under sound management programs.

Foreign and domestic fishing will be conducted under these fundamental principles of optimum yield and sharing of excess stocks by means of management plans which will be promulgated by councils composed largely of State, public, and fishery representatives subject to the overall authority of the Secretary of Commerce.

Three councils have been proposed for the Atlantic coast, recognizing the great diversity of fisheries that range from Maine to Florida. One council has been established for the gulf coast, one for the west coast, and one for Alaska which will include representation from Oregon and Washington. Finally, a council is proposed for the Western Pacific area, including Hawaii, Samoa, and Guam. The councils, by means of hearings at the local level within their respective geographic areas and with expert advice and assistance from the Secretary of Commerce acting through the National Marine Fisheries Service, will develop management plans as needed on a species-by-species basis. These plans upon approval by the Secretary will be the subject of further hearings at the national level. A system of management plan development has been carefully structured to insure that the local interests of the coastal areas, as well as the national interest, will be fully protected and taken into account. Foreign fishing, both for species under management and for those that do not require specific management plans, will be conducted under a permit system.

The permit system developed in H.R. 200 is one of its more innovative features. Foreign nations wishing to have their fishing vessels engage in fishing within the zone will apply to the United States for permits. The Secretary of Commerce after consulting with the Secretary of State, the Coast Guard and the local councils, may grant these permits under appropriate conditions which he will establish to insure that the foreign fishing effort is consistent with the underlying principle of optimum yield. Licenses will be issued to the foreign vessels. The bill contains comprehensive provisions dealing with enforcement of these regulations. The permit system will greatly facilitate Coast Guard enforcement and surveillance. The United States will know specifically which vessels are authorized to engage in fishing within the zone, what species they are taking, and in what quantities. We have carefully avoided imposing criminal sanctions against foreign vessels except in those instances where a boarding officer is physically threatened. Under those circumstances, he would have the authority to arrest.

As my colleagues undoubtedly know, many of our fisheries are now the subject of international agreements. While there are a number of treaties dealing with fisheries off the United States, much of the foreign fishing is conducted under bilateral executive agreements. The legislation does not, and I must repeat, does not abrogate any treaties. It simply directs the Secretary of State to make a good-faith effort to renegotiate these treaties so that they will be conformed to the requirements of this legislation. The Secretary is directed to report annually to Congress beginning next May with respect to these efforts to renegotiate treaties.

So far as the bilateral agreements are

concerned, virtually all of them will expire by their own terms within a year. The legislation states that if either the United States or the foreign nation wishes to extend or renew a bilateral fishery agreement, this can only be done under the terms of this legislation. However, again, the legislation does not abrogate any existing bilateral agreement. They will simply be allowed to die a natural death. Frankly, under the comprehensive management program established in this legislation, the type of bilateral agreements that we have entered into in the past are inappropriate. Essentially, what they did was grant concessions to foreign nations in return for those nations agreeing to refrain from fishing for certain stocks near our shores during specified periods of time. Under the management regime embodied in H.R. 200 and the permit system, the questionable bilaterals of the past decade can be forgotten.

H.R. 200 attempts to deal with the complex question of Federal/State relations. It is an unfortunate fact that many of our coastal States have failed in the past to deal effectively with common resources. Although we have had for many years three marine fishery commissions under federally approved compacts, the commissions have been unsuccessful in achieving uniformity among the laws of their respective States. The fisheries of the United States in most cases are found off the shores of a number of States, and if a fishery is to be managed on an intelligent basis, the management plan must be the same. Conflicts between the States could well undermine our efforts to achieve the goals of this legislation. The legislation does, therefore, authorize the Secretary to override State management of a specific fishery within the territorial sea if he finds that the State has either taken an action or failed to act in such a way that will both substantially and adversely impact upon the management plan. A few comments about this are in order, since a number of States have expressed concern about Federal preemption.

First of all, the finding by the Secretary can only be made with respect to a specific fishery for which a management plan has been promulgated. There can be no blanket Federal override of State management. Second, the finding made by the Secretary is fully subject to the requirements of the Administrative Procedures Act, and any State which feels that it has been adversely affected has the full right of appeal. This is a very narrowly circumscribed Federal override provision. The conditions under which the Secretary might exercise this authority will be extremely limited. I expect that since the management plans are promulgated by councils composed of local and State people, these same people will make every effort to insure that their States are in harmony with the management plans they have developed, and there will be few occasions when an override will become necessary.

H.R. 200, of course, does not attempt to encompass the management of highly migratory species such as tuna which the United States recognizes is only susceptible of international management. This is consistent with the U.S. negotiating position in the Law of the Sea Conference. The legislation does extend the management authority of the United States to anadromous species such as salmon—again, consistent with the U.S. negotiating position. Conservation measures dealing with anadromous species seaward of the 200-mile limit are subject, however, to negotiation with foreign nations under article 7 of the Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas.

The extension of the fisheries zone to the 200-mile limit will occur on July 1, 1976, following the next session of the Law of the Sea Conference. If a treaty is concluded, there is authority granted to the Secretary to conform the regulations of this act to the terms of the treaty. This leadtime is necessary also in order to establish the councils and to put into motion all of the management mechanism created by the act. This is an extremely comprehensive bill. A great deal of thought and time has gone into its preparation. It is not the result of hasty or ill-conceived action. It is the culmination of years of effort.

This morning, at the Republican Conference, several representatives of the Defense and State Departments spoke in opposition to this legislation. Mr. John Norton Moore, the head of the Inter-Agency Task Force on the Law of the Sea, summarized this opposition as follows:

1. The enactment of this legislation would be contrary to our fisheries interests;
2. It has been the policy of the United States to oppose unilateral actions for the past thirty years;
3. The objectives of H.R. 200 have already been embodied in the so-called "single negotiating text" and thus are, in effect, "in the bag".
4. Finally, Ambassador Moore announced a new two-year phased program of intensified efforts to negotiate with foreign nations to achieve the same goals embodied in H.R. 200.

The Department of Defense spokesmen concentrated on the possibility that other nations would, as he put it, retaliate against the United States by declaring 200-mile territorial seas, thus closing a third of the ocean waters to our ships and denying us transit through various international straits.

Ambassador Moore brought with him a chart showing the relative importance of our various fisheries to buttress his argument that this legislation would be contrary to our most important fisheries interests. The chart showed that the value of our shrimp fishery at $200 million; our salmon fishery at $120 million; and our tuna fishery at $90 million. In contrast with these figures, he reported that the value of our so-called coastal fisheries was only $50 million. I assume that his dollar figures are correct; however, I have been advised that the overwhelming majority of the shrimp and the salmon are caught within 200 miles and, indeed, within 20 miles of the shores of the United States. The majority of U.S. shrimp fishermen do not fish off the coast of other nations. Of course, our catch off Mexico and Brazil is substantial—there is no question about that. But to assert that the entire fishery is in jeopardy is sheer nonsense. So far as salmon is concerned, virtually all of the U.S. catch is taken close in-shore—well within 200 miles. It is quite true that the Japanese now refrain from fishing for salmon on the high seas under an agreement that has been in effect for many years. But in return for this agreement to abstain from salmon fishing, the Japanese are permitted to harvest tremendous quantities of crab and pollack off our coasts. Indeed, the most important Japanese fishery off the U.S. coast is the Alaska pollack. While the salmon which the Japanese catch is reexported to the United States, the pollack is consumed in Japan; it is one of the most important elements in the Japanese diet. Ambassador Moore would have us believe that the Japanese are willing to forego the pollack fishery and the crab fishery within 200 miles of Alaska under a permit system in order to engage in the high seas fishing for salmon and that the U.S. would then allow this salmon to be imported into our country. Ambassador Moore's comments in regard to tuna are equally questionable. He has suggested that our $90 million catch of tuna and our very modern tuna fleet will be lost if H.R. 200 is enacted. However, that the single negotiating text of the Law of the Sea Conference fails in itself to protect our tuna industry in that it does not impose upon Ecuador and Peru any obligation to permit our tuna fishermen to come within 200 miles of those nations. There is, therefore, unfortunately, no sure basis for believing that our tuna industry will be protected by this treaty if and when it ever materializes. I believe in fact that H.R. 200 will assist the majority of our fisheries.

So far as our 30-year policy of no unilateral action is concerned, it needs only be noted that President Truman in 1945 by proclamation asserted U.S. jurisdiction over the mineral resources of our continental shelf as far seaward as they are capable of being exploited. This unilateral action was followed in 1953 with the Outer Continental Shelf Lands Act which set forth the mechanism for Federal licensing on the Outer Continental Shelf. In 1966, the Congress, over the strenuous objections of the State Department, unilaterally declared our present 9-mile contiguous fishery zone. So much for a 30-year policy.

Ambassador Moore says that our fisheries policy as embodied in the Law of the Sea "single negotiating text" is, and I quote, "in the bag". Again, however, he fails to state that nothing else is "in the bag"—and the consensus on a 200-mile economic zone can come unglued any time as nations begin negotiations with respect to transit rights, the deep seabed regime, pollution control, scientific research, and all the other issues in the Conference, upon which no consensus has yet been reached. Indeed, the consensus on a 200-mile economic zone is a captive that is being held out to us as a carrot in hopes that we will concede in the Law of the Sea negotiations on a

variety of other issues that are close to the hearts of the developing nations. The "single negotiating text" on the regime for the deep seabed is a panacea from the standpoint of the United States. Yet, the United States is going to be under intense pressure to cave in on this issue in order to preserve the consensus on the economic zone and in order to achieve our transit position that is of such concern to the Department of Defense. The United States has maintained throughout this Conference that we will accept only a package deal. Consequently, our acceptance of the consensus on a 200-mile economic zone is dependent upon achieving success in all other areas of the Law of the Sea Conference as well. Consequently, nothing will be "in the bag" until everything is "in the bag."

Ambassador Moore has suggested a new program to achieve by negotiation what we would do by H.R. 200. It is important to note that this was referred to as a 2-year phased program to achieve the results of H.R. 200. Why will this take 2 years of private negotiation outside the scope of the Law of the Sea Conference if, as Ambassador Moore would have us believe, the Law of the Sea Conference will be able to conclude its work in 1976? In this regard, much is made of the recent fortuitous negotiations regarding fisheries off our New England coast in ICNAF. That success was achieved simply because the Soviet Union and the other East European countries decided to support the United States.

Was this decision a result of their concern for the conservation of the resources? If so, how do we explain their lack of concern over the past decade? Clearly, this change of heart is the result of their anticipation that the United States now has the resolve to take action. If we fail to act, I doubt that we will see any more of this new Russian spirit of conciliation at the next meeting of ICNAF in 1976.

I sympathize with the position of the Department of Defense. Even if a 12-mile territorial sea is adopted as a result of the Law of the Sea Conference, a number of very important straits may be affected. Again, however, the "single negotiating text" does not resolve the issue in our favor, but leaves it totally open for further negotiation. The only way which H.R. 200 will adversely affect the Defense Department position will be if all other nations in retaliation declare broad territorial seas and abandon the Conference. No reasoned arguments are given, however, to substantiate this fear that the Conference will collapse. Why will all other nations retaliate against the United States for taking these steps today? Will not the rest of the world perceive that it is in their collective best interest to remain in the Conference and attempt to reach a consensus on the seabed regime and the other vital issues? I question if the position of the Defense Department gives much credit to the intelligence of the developing nations of the world.

Finally, Mr. Chairman, I would like to comment upon the argument that the action we propose to take today is in violation of international law. This argument rests principally upon the decision of the International Court of Justice in the *Icelandic* case wherein the Court ruled that Iceland could not assert its 50-mile fisheries zone against the United Kingdom. Those who cite this decision fail to point out the reason the Court ruled against Iceland. The judgment of the court was based upon the fact that Iceland, prior to extending its fisheries zone, had by treaty agreed to negotiate with the United Kingdom over fishing rights of British vessels that had fished off Iceland for more than half a century. Given Iceland's violation of this treaty commitment, the Court had no choice but to rule in favor of the United Kingdom. Each judge of the Court rendered an opinion. Depending upon which judge one chooses, you can find arguments on every side of the issue. A consistent thread runs through the dicta of most of the judges and that is a coastal State may take action to protect the fisheries upon which it is particularly dependent, provided it gives due recognition of the legitimate interests of other nations that have fished off the coastal State's shores—and that is precisely what H.R. 200 does.

Mr. Chairman, I apologize for taking so long to discuss this bill. It is however, extremely important and merits full consideration. I do not take lightly the concern of the administration. I firmly believe, however, that on balance, we are acting in a responsible manner.

Mr. Chairman, I yield back the balance of my time.

Mrs. SULLIVAN. Mr. Chairman, I yield the balance of my time to the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. Mr. Chairman, I want to express my very real and strong personal gratitude to the chairman of this committee, the gentlewoman from Missouri (Mrs. SULLIVAN); to the chairman of the subcommittee, the gentleman from California (Mr. LEGGETT); and to the ranking minority member, the gentleman from Michigan (Mr. RUPPE); and, if this does not sound too trite, to all the members of the committee who have approached this legislation in about as nonpartisan a manner as I think any issue can possibly be approached.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, I would like to acknowledge that this bill would not be on the floor today if it were not for the gentleman in the well. He has been the sparkplug for my term as chairman of the subcommittee and he has worked to perfect the bill in its present form.

Mr. STUDDS. I thank the gentleman.

I want to say this for those Members who are really echoing the words of the State Department, that the chairman of our committee (Mrs. SULLIVAN), over the very strong objections of this Member in the well and a great many others, for 2 years insisted, in what seems in retrospect an extremely responsible fashion, that we wait and give the Law of the Sea a chance. Over my objections our committee did wait throughout 1973, and over my objections our committee did wait throughout 1974.

I do not think that the Department of State or anyone else can suggest that the gentlewoman from Missouri has been anything other than responsible to a fault with respect to adhering to the wishes of those who said that the Law of the Sea could solve this problem. There is no Member of this House who would not prefer to see the problem resolved by international agreement, no one, and we have waited and we have waited and perhaps some day it will be resolved in that fashion.

Mr. Chairman, as the original sponsor of H.R. 200, I speak in favor of its passage. Since I first introduced the bill in June of 1973, the House Merchant Marine and Fisheries Committee has held almost continuous hearings on the bill, the need for urgent conservation measures to prevent destruction of our marine fisheries, and on the possible international implications of U.S. action. The committee's consideration of the issues involved was most deliberate and exhaustive, and the committee wrote its substitute only after 2 years of extensive hearings and study.

The need for this bill, Mr. Chairman, is urgent.

World fish landings have tripled since 1938. U.S. landings during the same period have remained almost steady, increasing from 4.3 billion pounds in 1938, to only 4.7 billion pounds in 1973. To meet the needs for increased fish consumption in the United States, imports of fish more than tripled between 1959 and 1973. These increased imports led to a 1972 balance of payments deficit of $1.3 billion in fish and fisheries products, up 318 percent over 1960. A recent study conducted for the Commerce Department showed that this trend will continue unless there is a major change in Federal policy.

Foreign fishing fleets began to work the fishing grounds off our shores in earnest in the 1960's, and have since then decimated the populations of some fish species, driving them to commercial extinction. The continued foreign fishing efforts threaten the commercial extinction of still more species in coming years. In addition to exciting the serious concern of conservationists and commercial and sports fishermen, this depletion of fish stocks threatens to destroy a protein-rich food source which should be saved to help feed hungry people throughout the world. If properly managed as a renewable resource, these ocean fisheries can supply large amounts of protein-rich food each year. I believe it would be immoral for the Government of the United States to stand idly by, and by so doing allow this food resource to be destroyed.

I believe the Georges Bank fishing grounds off New England, which are regulated by the International Convention for the Northwest Atlantic Fisheries—ICNAF—provide an obvious and typical example of the failure of current international agreements to meet this problem. Before 1960, Georges Bank was

fished almost exclusively by U.S. vessels. In 1961 the Soviet Union entered this fishery, and by 1965 the Soviet catch off our east coast was over half a million tons, far exceeding our own catch. In June 1967, the ICNAF treaty was signed. By 1970 additional countries had joined the fishery and the total foreign catch off our east coast had grown to more than 1 million tons, far above the allowable harvest calculated by fisheries biologists. The U.S. share of the fish catch off our east coast declined from 92.9 percent in 1960, to 50 percent in 1974. In the Georges Bank and southern New England areas regulated by ICNAF, the U.S. share of the catch declined, respectively, from 88 percent and 100 percent in 1960, to 10.4 percent and 11.8 percent in 1972. Haddock had become almost commercially extinct, and other species were severely threatened.

The executive branch is thoroughly aware of the depletion of our coastal fish stocks by foreign fleets. In a June 6, 1973 letter for the records of the House Merchant Marine and Fisheries Committee, John Norton Moore, speaking for the State Department, stated that—

> The Executive Branch appreciates the need for greater control over fisheries off our coasts.

In the State Department's May 1974 official report on fisheries jurisdiction extension legislation, the Department said:

> We recognize that the coastal fishermen of the United States have encountered severe problems in recent years and that overfishing for some species has caused depletion of the stocks involved. Accordingly, we are sympathetic with the need for a solution to the genuine problems which have prompted this bill.

The report went on to admit that—

> Recognizing that the Law of the Sea Conference will take time to complete its work, and that there will be additional delays pending ratification, there is indeed an interim problem with respect to our coastal fisheries.

The Department then announced steps "to enhance the protection of our coastal stocks and to alleviate the problems of our coastal fishermen" until a Law of the Sea Treaty becomes effective. These steps consisted primarily of "working to strengthen both bilateral and multilateral agreements with nations whose nationals conduct fishing operations off our coast."

In support of hopes for this worthy goal, the Department cited a new ICNAF agreement that the catch limits for 1976 would be established at levels low enough to allow the fish stocks to recover to the maximum sustainable yield level. That fine-sounding policy statement by ICNAF was ignored at the annual meeting this spring, and the United States had to formally object to the quota for the taking of finfish off the New England and mid-Atlantic coasts next year, "on the basis that the allowable catch amount is too high and threatens future productivity." ICNAF finally agreed at its special meeting in Montreal last month to reverse its decision and fulfill its promise—but it did so only after one of the most concerted diplomatic efforts the United States has ever undertaken for a fisheries negotiation, including a personal letter from President Ford to the meeting. It is unrealistic to expect that this same kind of concerted diplomatic effort will be conducted for every fishery negotiation in which the United States is involved during the next few years. Consequently, I believe that it is erroneous to use the result of this massive diplomatic effort to predict success in future negotiations on bilateral and multilateral fisheries agreements.

Mr. Chairman, the rape of the fisheries resources off our coasts is still continuing. While a few modest gains have been made in the last 2 years for particular species, and in increasing the U.S. share of the dwindling overall supplies of fish in specific areas, the basic problem remains the same. The State Department efforts to increase the effectiveness of our bilateral and multilateral fisheries agreements have succeeded only in making minimal changes, not in reversing the severe and continuing depletion of fish. The crisis still exists, and is getting more serious as the months and years pass by.

When Under Secretary Maw testified before the Senate Commerce Committee on September 19, he announced a continuation of efforts to increase the effectiveness of the bilateral and multilateral treaties. This is the same effort the State Department has been engaged in for the last 2 years, with minimal effect. The crisis is real. It will not, in my opinion, wait for the diplomats to complete their meetings and negotiations many years in the future. Consequently, I believe the United States must act, in as responsible a way as possible, to unilaterally end the foreign exploitation of the fisheries off our coasts. It is my conclusion that the only way we can get off dead center and protect this food resource is to act promptly and pass H.R. 200 as reported by the Committee on Merchant Marine and Fisheries.

Mr. Chairman, the State Department has urged the Congress to delay passage of H.R. 200 until after conclusion of the Law of the Sea meeting in New York next spring. They have pressed similar requests, coupled with predictions of a completed treaty at the coming session, for each session since the late 1973 preparatory meetings in New York. Following the last session of the Law of the Sea Conference in Geneva, John Norton Moore, who has heretofore been the administration spokesman to the Congress on H.R. 200, finally admitted that these rosy predictions which precede each session are just that—

> In previous testimony before this Committee, I have indicated that there were reasonable prospects of adhering to the General Assembly schedule and completing the work of the Conference during 1975 . . . I regret to report to you that I was wrong and that this schedule was overly optimistic. It is now clear that the negotiations cannot be completed before mid 1976 at the earliest and at this time it is not clear whether or not a treaty can be completed during 1976.

At the oversight hearing held by the International Relations Committee on September 24, Under Secretary of State Maw stated in response to a question that he could not say whether or not the Law of the Sea Conference would conclude negotiation of a treaty within 3 to 5 years. If the United States were to wait that long for truly effective fish conservation and management authority, the continuing foreign fishing would have destroyed the fish, and we would be guilty of standing idly by while an important world food source was destroyed.

While the most controversial feature of H.R. 200 is its provision for extension of U.S. fisheries conservation and management jurisdiction to 200 miles from our coast, effective July 1, 1976, the bill also establishes a structure of regional fisheries management councils charged with responsibility for adopting conservation and management plans for each depleted or threatened species of fish. The regional councils would be created immediately after passage of the bill, and the adoption of conservation rules applying to both U.S. and foreign fishing would be well underway before the July 1, 1976, extension of U.S. fisheries jurisdiction under the bill.

H.R. 200 does not abrogate or violate U.S. obligations under existing treaties. These treaties will continue to be honored until their legal termination, or their renegotiation as provided for in section 202 of the bill.

Mr. Chairman, the United States has long been a leader in establishing international law with respect to the oceans, and has taken previous unilateral actions. President Truman's unilateral proclamation of 1945 that the United States would exercise jurisdiction over the living and mineral resources on and under the Continental Shelf was not codified into international law until the 1958 Law of the Sea Conference concluded its meetings some 13 years later. The extension of United States fisheries jurisdiction by the Congress from 3 to 12 miles in 1966 was also a unilateral action, and is still unrecognized in codified international law. The United States does arrest foreign fishing vessels which violate our 12-mile fisheries jurisdiction, and these arrests have not led to international confrontations.

The current trend in international law, exemplified by the almost universal acceptance by countries at the Law of the Sea Conference, is toward a 200-mile economic or fishing zone for coastal countries. By passing H.R. 200, the United States would not be reversing its long-standing policy, but would be continuing its tradition of recognizing trends in international law regarding conservation and management of fisheries resources, and of acting in accordance with those trends to protect the living resources of the sea.

H.R. 200 is explicitly an interim measure, which would apply only until the Law of the Sea Conference can complete an acceptable treaty. That Conference is basically agreed on the fisheries provisions of such a treaty, but is currently stalemated over deep-sea mining and other issues. It is not possible to predict that the Conference will complete an acceptable treaty within the near future, or even that it will ever complete such a treaty. Passage of H.R. 200, which is

consistent with the consensus at the Conference on fisheries jurisdiction, may provide the needed stimulus toward completion of negotiations on the other issues. I believe the United States must take interim action now to stop the destruction of its coastal fisheries, consistent with the developing principles of international law.

Mr. Chairman, H.R. 200 has widespread support throughout the United States. Among the national organizations endorsing H.R. 200 are the AFL–CIO, Friends of the Earth, the Environmental Policy Center, National Fisheries Institute, National Federation of Fishermen, National Coalition for Marine Conservation, American League of Anglers, and the Society for Animal Protective Legislation. Additional organizations which support the 200-mile limit include the Izaak Walton League, National Wildlife Federation, Sport Fishing Institute, American Fishing Tackle Manufacturers Association, National Sporting Goods Association, Emergency Committee to Save America's Marine Resources, National Restaurant Association, Defenders of Wildlife, Animal Protection Institute, the Humane Society of the United States, Fund for Animals, the International Game Fish Association, National Coalition of Patriotic Societies, and the New England Governors' Conference. All of these organizations recognize the need to act immediately to protect the fish off our coasts from elimination by foreign fleets.

The Congress expressed its concern officially in late 1973 by passing Senate Concurrent Resolution 11, which states that—

> It is the policy of the Congress that our fishing industry be afforded all support necessary to have it strengthened, and all steps taken to provide adequate protection for our coastal fisheries against excessive foreign fishing, and further that the Congress is fully prepared to act immediately to provide interim measures to conserve overfished stocks and to protect our domestic fishing industry.

The House version of that resolution, House Concurrent Resolution 173, which contained this same language, passed on December 4, 1973, by a unanimous 405 to 0 record vote. Passage of that resolution made it the policy of the Congress to take action to protect our coastal fisheries, H.R. 200 will provide that protection. H.R. 200 is consistent with the U.S. negotiating position at the Law of the Sea Conference. H.R. 200 is consistent with the evolving trend of international law, which is embodied in the emerging consensus at the Law of the Sea Conference. H.R. 200 will prevent destruction of an important source of protein-rich food. H.R. 200 is a vitally needed conservation measure. I support and urge its passage.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, would the gentleman accept an amendment to the bill providing that nothing in this bill violates the customary law of the high seas or of a treaty that shall be in effect?

Mr. STUDDS. This gentleman will be delighted to accept that if we can agree on the definition of customary law.

Mr. ECKHARDT. Would the gentleman accept that amendment?

Mr. STUDDS. Not until we know what we are talking about.

Mr. ECKHARDT. If we leave out "customary law"?

Mr. STUDDS. There is no clear existing international law of the sea. The claims of nations range from 3 to 200 miles.

The gentleman from California (Mr. DON H. CLAUSEN), through whose courtesy we have the bill number (H.R. 200), made the observation quite rightly that all the arguments have been made.

Finally, then, let me say this.

I would ask the Members of this House, is it really more irresponsible for us to wait until next year or 5 or 6 years for ratification of an international agreement, or to act now on an issue which is basically one of food? If we heed the advice of the Department of State and we wait for an international agreement, we may find ourselves with the finest agreement in the history of international negotiations, but it will also be an entirely academic one, because by the time an agreement can be negotiated and ratified and come into effect, there will be no fish—no fish in the major coastal areas of this Nation for it to protect.

I would suggest that in a world where people are starving to death, for this Nation to stand by and do nothing and to see the largest single sources of protein on the face of the Earth permanently depleted because we, at the urging of the Department of State, chose to be cautious, I suggest that in the long run of history that would probably be the most irresponsible act of all.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, first of all I want to thank the gentleman for yielding to me and to commend him for a very fine statement. He has taken the leadership from the very moment he arrived in Congress, and I think my colleague has shattered beyond any question all the ballyhoo concerning international law and treaties and the suggestions by the State Department that we wait.

Speaking for my own district, my fishing industry is practically destroyed, and one of the major factors is the manner in which the foreign trawlers have just raked our shores of everything in sight. I have just one question which I might pose to the gentleman dealing with what is meant by "highly migratory fish."

I had a question concerning a few species, and I wonder if I could address this question to the chairman or to the gentleman in the well. I want to know whether, for instance, mackerel, Spanish mackerel and bluefish would fall into the category of nonhighly migratory fish.

Mr. STUDDS. Bluefish are not highly migratory, and would therefore be covered by the bill. There are several different kinds of mackerels. Frigate mackerels are highly migratory, and are so listed on page 48 of the committee report. All other mackerels, including Spanish mackerel, are not highly migratory and would be covered by the bill.

Mr. HUGHES. I thank the gentleman.

Mr. STUDDS. Mr. Chairman, members of the committee, I think we have said it all. The hour is late. We have work to do, and I would hope that when we go home on this recess we can say to the people of this country that we remembered what we said 2 years ago in this body when we passed Senate Concurrent Resolution 11. The Congress and this House 2 years ago said that, "It is the opinion of the Congress that all steps be taken to provide adequate protection for our coastal fisheries against excessive foreign fishing, and that the Congress is fully prepared to act immediately to provide interim measures to provide full assistance and protection for our fishing industry."

Two years, even for this Congress, is time enough, and I hope that we will not have any further explaining to do on this recess.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield for two questions?

Mr. STUDDS. I yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Chairman, do I understand the gentleman to urge that this law, if enacted, will be in accordance with international law?

Mr. STUDDS. It is my contention that we are not, in this legislation, violating international law.

Mr. McCLOSKEY. The gentleman is not violating international law. Is he then stating that this is in accordance with international law?

Mr. STUDDS. I would assume that the gentleman himself is a lawyer and would probably draw that implication.

Mr. McCLOSKEY. It is a simple question. It can be answered yes or no.

Mr. STUDDS. It can be answered yes or no, I say to the gentleman——

Mr. McCLOSKEY. Is it in accordance with international law?

Mr. STUDDS. I say to the gentleman that it can only be answered "Yes" or "No" if the two people engaging in the colloquy agree on the definition of international law at the moment.

Mr. McCLOSKEY. The gentleman cannot answer the question, is that what I understand his answer to be?

Mr. STUDDS. I will repeat the argument, if the gentleman wishes.

Mr. McCLOSKEY. My second question is, Is it the gentleman's contention that this bill, if enacted into law, will not violate any treaty we have with other nations?

Mr. STUDDS. It is.

Mr. McCLOSKEY. It is the gentleman's contention that it will not violate any treaty with the Soviets, the Japanese and any other nation?

Mr. STUDDS. Yes.

Mr. McCLOSKEY. If that should be demonstrated to the contrary, with the well-known respect of the gentleman for the law, would he take the bill off the calendar?

Mr. STUDDS. We have spent 3 very full years in examining this matter.

Mr. McCLOSKEY. The gentleman can concede that the law should not be enacted?

Mr. STUDDS. If the gentleman can convince me of that.

Mr. McCLOSKEY. I can, and I mean to offer an amendment that would make any dispute arising under this law subject to International Court of Justice.

Mr. STUDDS. The gentleman has an extraordinary way with logic, may I say. I would assume that whether or not such a provision is included, this Nation would act with respect to the International Court in the way in which it normally does.

May I say to the gentleman that he cited the International Court's decision with respect to the United Kingdom and Iceland. That was a very parochial decision dealing with a particular instance. The gentleman neglected to point out that a key finding of the Court in deciding in favor of the United Kingdom and against Iceland was the fact that the United Kingdom had been fishing for centuries off the coast of Iceland and had established a historic pattern, whereas all the Soviet and Japanese fleets have been off the coast of this Nation for only 15 years.

Mr. McCLOSKEY. What about our fishing off the 200-mile limits of other nations? Have we not been fishing just recently off the coasts of Equador, Brazil, and Peru?

Mr. STUDDS. The gentleman well knows that we have exempted from the bill the highly migratory species.

Mr. McCLOSKEY. That is a nice gesture on our part, to say that we are exempting some species of fish from those territorial waters or other waters, but we will include all territories.

Mr. STUDDS. We did not dream that up, I will say to the gentleman. That is not only the negotiating position of the United States at the Law of the Sea Conference, it is the consensus of the single negotiating text at the Conference.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. I thank the gentleman for yielding. Considering the fact that the gentleman from California wants us to submit to the so-called international court of justice, specifically, in this legislation, to bring us under international law, would it not be obvious that if we are under international law we would not have to make a statement that we are objecting to an international court, No. 1; and, No. 2, if there is an international law on the 200-mile limit, why is it that no case has been brought to the bar with respect to the 10-year-old legislation of all of the Latin American and African states?

Mr. STUDDS. I would agree with the gentleman. And may I point out that the 12-mile jurisdiction of this Nation, fisheries jurisdiction, to which the gentleman from California (Mr. VAN DEERLIN) referred during the debate on the rule as "our time honored 12-mile limit," is precisely 9 years old and came into existence by the unilateral action of this Congress 9 years ago. Although I was not here, I cannot imagine that the Department of State was not saying exactly the same thing then as they are saying now. And may I say, furthermore, to the gentleman that, at worst, international law is arguable; and if it is arguable, for once might I plead with this Congress to act on behalf of the United States and not to bend over backwards in efforts to make that law read that we should not act. We have done it before. There is ample precedent for it. Existing international law is totally undefined, and our action is well within the limits of international law.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield for the purpose of a question?

Mr. STUDDS. I yield to the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. I thank the gentleman for yielding. Certainly, I appreciate the gentleman's sincerity and his concern, and we all join in his concern for the best interests of the fishing industry in this country. But will not the gentleman agree that this legislation does have serious foreign policy implications?

Mr. STUDDS. If the distinguished member of the Committee on International Relations is endeavoring to have me concede that his committee has jurisdiction, I do not believe we have enough time for him to do that.

Mr. ZABLOCKI. If the gentleman will yield further, I merely asked whether there is indeed serious foreign policy implications in it.

Mr. STUDDS. There are clearly foreign policy implications.

Mr. ZABLOCKI. Would it not be preferable if this legislation were sequentially referred to both committees?

Mr. STUDDS. It not only would not have been preferable, it would be in violation of the rules of this House, clearly.

Mr. Chairman, I urge the adoption of the bill.

Mr. ZABLOCKI. It would take the rest of the afternoon to discuss that issue.

Mr. Chairman, I am compelled to oppose the bill, H.R. 200. This legislation contains serious and far-reaching foreign policy implications. The measure should have been sequentially referred to the House Committee on International Relations. H.R. 200, in both its language and implications, impinges upon the committee's jurisdiction over relations with foreign countries generally, the establishment of boundary lines between the United States and foreign nations, international conferences and congresses, and the United Nations organizations.

Sequential referral was denied the International Relations Committee; therefore, pursuant to rule X, clause 3(d) of the rules of the House, the committee held hearings and met in open sessions to consider an oversight report on the foreign policy implications of H.R. 200. That report is in the printing process and denied to this body because of the unnecessary hurried consideration today by this House.

In brief, Mr. Chairman, the majority view—15 aye to 5 nay, 1 present—of our committee as expressed in the report is that a unilateral extension of the U.S. fishing zone from 12 to 200 miles as required in H.R. 200 would have serious foreign policy implications for the United States.

The report stresses the following points:

The broad range of U.S. ocean interest can best be protected by international agreements, not by unilateral actions such as those required in H.R. 200.

H.R. 200 would damage U.S. objectives at the Law of the Sea Conference including our efforts to obtain special agreements for salmon and for distant-water fisheries such as tuna and shrimp. With respect to distant-water fisheries, U.S. nationals conduct a significant amount of fishing off the coasts of 17 foreign countries—none of which claim a 200-mile jurisdiction.

There are alternative means now in motion for achieving a transition to a 200-mile coastal economic zone by international agreements, not by unilateral action. In addition to the Law of the Sea Conference, the President has initiated efforts to negotiate an interim 200-mile zone under existing agreements.

Unilateral action will adversely affect other important U.S. foreign policy interests including our vital need to insure freedom of commercial navigation for transport of such crucial commodities as oil.

H.R. 200 could very well provoke retaliatory action by other nations.

The enforcement measures contemplated by the bill are expensive—more than $640 million over the next 5-year period according to the Merchant Marine and Fisheries Committee report—and, by the admission of one of the bill's principal supporters, unenforceable for all practical purposes.

The bill is inconsistent with longstanding U.S. policy in opposition to unilateral ocean claims. If this bill is enacted, the United States would become the first major power to make such a claim.

H.R. 200 would violate or disrupt U.S. obligations with respect to six multilateral treaties in 11 bilateral treaties involving 18 other countries.

H.R. 200 is not an interim measure which would be supplanted by a new law of the sea treaty as claimed by the bill's supporters.

Section 205 of the bill gives the Secretary of Commerce discretionary—not mandatory—authority to conform the proposed legislation to any future law of the sea treaty. There is no assurance that the legislation, if enacted, would be superseded by a new multilateral convention on the seas.

Section 203 of the bill requires the Secretary of State to undertake, within 90 days of enactment, negotiations with foreign nations off whose coasts U.S. vessels fish in order to obtain agreements permitting access of U.S. vessels.

If such a nation refuses to negotiate or violates such an agreement, an embargo on all seafood products of that nation is to be invoked.

The embargo would be mandatory with no waiver provision, thus tying the hands of the Executive even in cases of serious foreign relations problems.

The bill also assumes the Fishermen's Protective Act would remain applicable to some types of seizures within 200 miles of other countries.

Implementation of this provision would be seen as the height of hypocrisy by the

rest of the world. If Congress finds, by enacting H.R. 200, that there is no current international law regarding fisheries in the 200-mile zone, what is the legal basis for the United States to assert that a claim to tuna in the zone is legal? We cannot have it both ways.

Mr. Chairman, in this regard the Committee on International Relations has received statements from the American Tunaboat Association, the Tuna Research Foundation, and the National Shrimp Congress—all of these organizations strenuously oppose H.R. 200.

In addition to the serious foreign policy questions raised by H.R. 200, the bill contains other imperfections. For example, the Federal Government will be incapable of immediately implementing the enforcement provisions and it is unclear whether they could ever be fully enforced.

Moreover, as reflected in the Merchant Marine Committee's rule request, the bill contains provisions which violate the germaneness rule and the appropriations process.

Finally, the bill does not contain any provisions for fisheries development which would seem to be a priority step at this point.

For all of these reasons, Mr. Chairman, I urge a "no" vote on H.R. 200.

Mr. DON H. CLAUSEN. Mr. Chairman, the list of people who have worked so hard to achieve enactment of H.R. 200 is virtually endless. It is difficult to single out a few because there are so many, but we owe a special thanks to Fred Phebus, who was secretary-manager of the Fishermen's Marketing Association in Eureka, Calif., during the time we considered the 12-mile limit.

It was Mr. Phebus and I who suggested 200 miles to the Senate Committee at that time.

Dennis Grotting of Eureka and Bill Grader of Fort Bragg have followed up on this issue with great diligence in advancing the views of the fishermen they represent.

And, too, Mr. Chairman, one of the most active groups in Northern California in support of H.R. 200 has been the fishermen's wives associations who have been totally dedicated to this important goal. Their continued efforts have helped bring this bill to where it is today.

At this point in the RECORD, I would like to read an editorial from the Advocate-News in Fort Bragg, Calif. I believe it succinctly sums up clearly the need for H.R. 200.

The article follows:

200-MILE LIMIT NECESSARY

The Law of the Sea conference concluded its session in Geneva two weeks ago, and so far as North Coast fishermen are concerned, it was a flop.

Each year larger foreign fishing fleets operate off the coast of Northern California, Washington, Oregon and Alaska.

The fishing capacity of the foreign fleets is much greater than our own, and though they fish for hake which has no commercial value here, the very size of their take has become a source of increasing concern to the local fishing industry since it can seriously alter the biological balance of the sea.

Further, three weeks ago, two Polish and six Soviet ships were observed taking what our government termed "more than incidental amounts of rock fish," and our government issued a warning to those two nations regarding violations of fishing agreements.

Our own Coast Guard has stepped up its program of enforcement of the agreement between the U.S. and U.S.S.R. which allows the Russians to fish for hake.

Nevertheless, more needs to be done by our government to protect the fisheries beyond our jurisdictional limits off this coast.

Since diplomacy has failed in the Law of the Sea conferences, we feel it is time for our congress to take unilateral action.

Congressman Don Clausen has proposed legislation which the congress should pass and the President should sign.

First, it would extend our territorial limits from three miles to twelve (the present jurisdictional limit) and establish a 200 mile Fisheries and Marine Resources Conservation Zone off our coast where the U.S. could regulate fishing. This would include the setting of seasons, net sizes, etc., but not interfere with nor regulate passage of foreign ships for any other purposes.

Second, it would assert congressional intent that jurisdiction over the taking of anadromous fish, such as salmon, belongs to the nation where the fish spawn; that jurisdiction over coastal species, bottom fish, belongs to the nation off whose shores the fish are taken; and that regulation of the taking of palagic fish, migratory species such as tuna, be set by international agreement.

The administration opposes such unilateral action because the State Department holds the position that all matters regarding the world's fisheries should be handled through bilateral or multilateral agreements.

But that position isn't getting the job done.

We believe that Congressman Clausen's bill not only does the job necessary but does so in a way that all fishing nations can live with it.

We urge the Congress to pass the bill and President Ford to sign it.

We further urge that the Congress provide the necessary funds for the Coast Guard, for the vessels and crews to properly enforce the law in a 200 mile zone.

The matter is urgent and the time to act is now.

Mr. ROGERS. Mr. Chairman, some concern has been expressed regarding the effect of this bill upon the States' regulation of fisheries within 3 miles of their shores.

I would like to say that I, as well as the other members of the committee, were well aware of these concerns, and the bill has been drafted accordingly. As drafted, the bill emphasizes the committee's intent that a State's jurisdiction not be diminished, except in those rare instances where it is found that with respect to a species which ranges both within and without the territorial sea adjacent to a State, a State has acted or failed to act in such a way as to substantially and adversely affect a fishery management plan.

I would emphasize that it is my understanding that this would be a most rare occurrence at most.

Furthermore, it is expected that the management plan will have been developed by the regional council, with the participation of all States concerned.

I am satisfied that this legislation, while containing safeguards to insure the effectiveness of fishery management plans, achieves the intent of leaving State jurisdiction unimpaired to the maximum extent possible.

Mrs. MINK. Mr. Chairman, I rise in opposition to H.R. 200, the bill which would extend the United States exclusive fisheries zone from 12 to 200 miles. The intent of the legislation—protection of certain species of fish and of the domestic fishing industry—is a laudable aim. But the question before us at this time must be viewed in a larger context, in the total picture of other actions by this country and by international negotiators at the Law of the Sea Conference which resumes its work in a few short months. The legislation on which we are asked to vote today is ill timed, extremely costly, and very likely unmanageable.

Extension of our fisheries zone to 200 miles would have obvious benefits for my State of Hawaii, a chain of islands which extends a full 1,300 miles from end to end. Designating the oceans surrounding this archipelago as waters to be under the jurisdiction of Hawaii would create one of the biggest fishing grounds in any ocean, a tremendously significant addition to our State's fishery potential.

Coming from an island area, where we all live close to the sea, I have long been interested in the matter of ocean resources and development of the riches which these waters hold for mankind. As the United Nations convened the Third International Law of the Sea Conference several years ago, this interest heightened when I realized the significance this had for Hawaii and for all ocean-bordering states. Third world nations—the group of 77—pushed for a 200-mile economic zone wherein countries bordering on the oceans could lay claim out to 200 miles on any and all of the economic resources in the water as well as on the ocean bottom.

Obviously, such an effort to preserve the rights of ocean-bordering countries and, hopefully, island states, to the minerals that might be harvested out of the ocean within the 200-mile zone, to establish internationally recognized property rights to these resources, is a tremendously important matter. And the fact of the matter is that this concept is one of the very few such issues at the Law of the Sea Conference to which nearly all nations are agreed.

As the Geneva session of the Conference adjourned, the chairmen of the three committees in which issues were being developed, drafted working texts for the consideration of the delegates in the months before the New York meetings of the Conference are called to order in March of next year. The second committee, addressing questions of the Territorial Sea and Contiguous Zones, has before it a single negotiating text, which, in part III, sets forth the concept of the 200-mile economic zone. Article 45 of this text says, in part:

In an area beyond and adjacent to its territorial sea, described as the exclusive economic zone, the coastal State has:

(a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether renewable or non-renewable, of the bed and subsoil and the superadjacent waters;

(b) exclusive rights and jurisdiction with regard to the establishment and use of artificial islands, installations and structures;

(c) exclusive jurisdiction with regard to:

(i) other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds; and

(ii) scientific research;

(d) jurisdiction with regard to the preservation of the marine environment, including pollution control and abatement;

(e) other rights and duties provided for in the present Convention.

We see, Mr. Chairman, the draft language of a major international agreement on this matter of fisheries and other resource conservation before us, and hope and expect that final agreement on this issue can be reached this coming spring.

The unilateral action which H.R. 200 seeks could well jeopardize the consummation of such an international treaty. And for what immediate gain are we willing to risk the loss of such an international agreement?

We are faced with a highly popular plea from supporters of this legislation: Let us keep out the foreigners; pass a law to keep foreign fishing fleets from taking "our" fish. Yet consider what happens when U.S. vessels are captured off the coasts of another country. The popular outcry then is for calling in the "gunboats" to save our fishermen.

The bill we consider today is a highly provocative one. Unilateral action by the United States to throw up this barrier to foreign fishing fleets at this time is an open invitation to other nations to do the same. We risk the probability of further exacerbating our already difficult relations with South America, or, in the alternative, totally eliminating American ships from fishing in the rich tuna grounds off the South American coast.

The largest fish processing firm operating in my State of Hawaii is opposed to any unilateral extension of the fisheries zone by the United States at this time. Bumble Bee Seafoods, a large and diversified fish processor owned by Castle and Cooke of Hawaii, told me that while it stood to gain some in the area of salmon fishing, it stood to lose a great deal in its shrimp and tuna operations. On balance, it was their conclusion that this legislation ought to be opposed, on the grounds that there was more to be lost than gained in the precipitous move proposed in this bill, and that the best solution for resolving fisheries jurisdictional and conservation issues lay in the international forum available in the Law of the Sea Conference. I agree that no rational enforcement of the fisheries zone jurisdiction is possible if this legislation becomes effective.

The question of our international integrity is at stake in this decision. In the interest of our future ability to be of some persuasion at the United Nations Law of the Sea Conference, I urge this House to reject this bill. The next session of the Conference will convene in New York City on March 29, 1976. It would seem to me to be entirely adequate for this Congress to express its endorsement of the 200-mile zone concept by a resolution. Such action by the Congress would serve to strengthen the U.S. position at the Conference and certainly no offense could be taken at that kind of assertion.

But a unilateral declaration of ownership of 200 miles of offshore fishing grounds by statute is contrary to international law of the high seas and existing international maritime policy. Unless we abide by the law, how can we expect any other nation to do so?

I ask the Members of this House to look beyond the immediate horizon, to forgo the promise of an illusory gain and, instead, consider our broader national responsibility and the long-range benefits the resolution of these questions in an international forum could bring to all of us and to the whole world. I, therefore, urge a vote against H.R. 200.

Thank you, Mr. Chairman.

Mr. HUGHES. Mr. Chairman, today the House debates a most important piece of legislation, H.R. 200, the Marine Fisheries Conservation Act. Enactment of this legislation is absolutely vital to protect our coastal fisheries. Not only have I cosponsored this bill introduced by my esteemed colleague, the Honorable GERRY E. STUDDS, but I have also testified on its behalf in June of 1974 before the Merchant Marine and Fisheries Subcommittee on Fisheries and Wildlife Conservation in Toms River, N.J., and more recently on March 10, 1975.

If we do not move decisively today to regain control of our fish resources off our own coasts then we just might not have any commercial fish stock worth saving when and if an international accord is reached at some future Law of the Sea Conference.

But getting 140 or more nations to honor a series of complex agreements of which fishing is but one important consideration may be more than any Law of the Sea Conference can resolve in the foreseeable future.

In ever-increasing number, foreign trawlers have been methodically decimating fish stock in both Atlantic and Pacific waters. It is a mechanized flotilla of pirate ships.

They don't fish. They harvest, but without regard to conservation.

Since the early sixties these floating factories from the Soviet Union, Poland, Japan and other nations have raked our waters scooping aboard everything that floats or swims including, not rarely, an American fisherman's nets or lobster pots.

What's too small to freeze or too strange to filet is ground up for meal or fertilizer.

By contrast, the American "fleet" is actually 144,000 full- and part-time fishermen who put to sea in 88,000 craft that range from skiffs to trawlers, the largest of which in Atlantic waters is still no match for their foreign rivals.

American fishermen were simply unprepared for the competition of foreign fleets operating as seagoing warehouses and processing plants.

To cite but one example, it wasn't 10 years ago that 120 million pounds of haddock a year were being caught from the Georges Bank of Cape Cod. But after Soviet flotillas turned their nets to haddock, the catch of New England fishermen plummeted to where 6 years later only 11.7 million pounds was brought ashore.

The irony, of course, is that the American consumer continued to buy haddock. But now it came imported and frozen, at prices far less than our own fishermen could match.

The consequence of a depressed American fishing fleet has been a necessity to import today 70 percent of our fish products. This added a staggering $1.3 billion to our balance of payments deficit last year.

This, in a nation whose seas teem with fish.

In my youth, I can remember a bustling fishing port in Wildwood, N.J. It was, in fact, the second largest commercial fishing harbor on the Atlantic Ocean.

Today that distinction is gone. We are left with a near-deserted harbor, a victim of neglect and dwindling catches brought about in large measure by overfishing.

We in New Jersey can work on getting the State and the Corps of Engineers to dredge our harbors for the anticipated return of fishing fleets. But today, we need the help of Congress.

We need a 200-mile fishing limit off New Jersey just as sorely as the cod fishermen need a protective zone off New England. We need the time that a fishing limit will bring in order to create a more efficient domestic fleet to satisfy the demands of the U.S. market. In this way, we can put an end to the practice of buying back from others what lies just off our shores.

Without a 200-mile limit and the protection it offers to our outmanned fishing fleet, American fishing will continue its rapid decline from its preeminent position of a generation ago. Last year five nations recorded larger catches, assisted by treaties that provided ready access to our coastal waters.

Less than a decade ago more than 270,000 metric tons of fish was hauled in by New Jersey fishermen. Today that figure has dwindled to barely 100,000 metric tons.

Operating in many instances just beyond the 12-mile limit, vessels from the Soviet Union, Poland, Japan, Romania and other nations remove 800,000 metric tons of fish from Cape Code to Cape Hatteras each year. Our domestic catch, meanwhile, has fallen off to less than 200,000 metric tons.

And while most American fishermen are limited by the size of their craft and facilities for freezing day-to-day fishing, foreign trawlers and their crews operate days and months on end.

Using fine mesh nets which comb the waters clean of all living things, foreign trawlers and their crew operate day and night removing, cleaning, packaging and freezing tons of fish around-the-clock.

It has been estimated that as a direct result of just this overfishing that the entire stock of fish from Cape Cod to Cape Hatteras has been depleted by two-thirds.

In just a decade haddock and porgies, the latter once bountiful off the Jersey coast, are now nearly extinct. Threatened species now include mackerel, flounder, cod, shrimp, halibut, herring and yellowtail. Ben Callaway, fishing editor for The Philadelphia Daily News, recently wrote

that 3 years ago foreign trawlers were removing 99.3 percent of the mackerel, 87.5 percent of the herring, 90.1 percent of the red hake and 88.2 percent of the silver hake, all in total disregard to fish conservation.

Eight nations today claim territorial rights of 200 miles while two others—Costa Rica and Nicaragua—claim economic rights to 200 miles. Several of these nations—notably Ecuador, Peru and Chile—have become notoriously aggressive in enforcing 200-mile fishing claims. Ecuador demanded and got $3.5 million for the release of seven American tuna boat crews.

Yet while American fishermen are arrested and hauled into port for fishing 140 miles off Ecuador, we are permitting the depletion of fish stock by foreign trawlers far closer to our shores to the ruination of U.S. commercial and sport fishing.

This simply must stop.

This legislation has been properly termed an interim measure. The long-range solution is to discourage rivalry among nations by ratifying an international accord fixing uniform territorial limits and a worldwide plan for fish management and uses of the sea by all nations.

But in the short term, if we are to shore up the American fishing fleet, we need the temporary protection of a 200-mile fishing limit.

As for enforcement, the U.S. Coast Guard headquarters for the Atlantic region has advised me that it would take only a modest 5-percent increase in their annual budget to enforce a 200-mile limit. This is certainly reasonable and in our interest to provide.

I am not one of those who believes that the imposition of a fishing limit will make it more difficult to reach an international accord on territorial rights and cooperative uses of the sea.

I believe that the reverse is true. It is going to take forceful unilateral action by major countries such as the United States to provide impetus to reach an international agreement. At present there appears to be no urgency among nations to consider the settlement of these issues. We can look forward to protracted negotiations and nation-by-nation ratification, a process that may take several years.

Pending an international agreement, the United States, today, must assert interim control over its contiguous fishing zones. Further delay means further depletion of our fish stocks and a precipitous decline in our domestic fishing industry. We must take this action or face the unhappy prospect of simply ceasing to be a major fishing nation.

Mr. MINISH. Mr. Chairman, I rise in strong support of H.R. 200, a bill to extend the exclusive fishing zone of the United States from 12 to 200 miles.

As a longtime sponsor of this measure, I want to express my gratitude to Chairman LEE SULLIVAN of the Merchant Marine and Fisheries Committee for her support for this bill and her work in bringing it to the floor of the House.

The continuing failure of the United Nations Law of the Sea Conference makes it clear that our country will have to move forward unilaterally to protect our fisheries resources from decimation by foreign fleets. While the international delegates argue and debate, the activities of foreign fishing fleets off our coastline continue to seriously deplete our fishing stocks.

H.R. 200 seeks to halt this increasingly severe depletion of the fisheries resources of the United States. In doing so, it is not a threat to international order and stability; rather it represents a real benefit for a world populace whose protein and other nutrition needs may be increasingly dependent on the bounty of the oceans—a bounty of enormous potential if properly conserved and managed.

H.R. 200 goes much beyond the simple extension to 200 miles to provide for effective conservation of the oceans' resources.

The bill would establish seven regional marine fishery councils whose primary responsibility would be to draw up fishery management plans for the conservation of species within their respective geographic areas. These plans may include detailed provisions to regulate when and where fishing may occur, the size of the catch, types of gear and the number of vessels which may fish in a specific area, and authority to charge for license fees. If the Secretary of Commerce, who has overall responsibility of managing U.S. fishery resources, does not believe a regional plan adequately carries out the purpose of the act, he may implement his own plan for the region until such time as the reasons for his assuming responsibility no longer exist.

In addition, the bill would authorize the charging of license fees for all those fishing within the zone for managed species, the proceeds of which would be earmarked for stock assessment, research activities, and reimbursing U.S. fishermen for license fees imposed on them for foreign fishing.

The bill would also provide civil and criminal penalties for violation of the act and authorize the banning of seafood imports from nations which refuse to preserve the rights of U.S. fishermen to waters which they had previously fished.

Mr. Chairman, it should be emphasized that H.R. 200 would merely serve as interim legislation that would be superseded by an agreement or treaty subsequently entered into with other nations.

However, though an international treaty is clearly the preferable route, we must be realistic about the chances for success and assume the responsibility for protecting our own natural resources.

Failure to enact promptly the 200-mile legislation, in my opinion, would be to allow overfishing by foreign fleets to continue at an accelerated rate, thereby jeopardizing the entire natural balance of marine life off our coasts.

Mr. HANNAFORD. Mr. Chairman, I rise in opposition to H.R. 200. I consider myself an environmentalist, and my aim is certainly not to deplete our oceans of fish. On the contrary, I am concerned about the method of saving them. We cannot move precipitously on such a delicate matter. We must remain mindful not only of the ecological environment, but the broader social, economic, and political environment as well.

I am aware that many of my fellow environmentalists are lined up on the other side of this issue. I can easily understand their reservations about the status quo. But on important and controversial issues such as this, I think we owe it to our divided citizens to balance interests, not to talk in ideological blacks and whites.

So I want to take this last-minute chance to address to this body certain questions which I think we all have to face up to before we really know what we are doing.

First. If we unilaterally declare a 200-mile limit, what do we expect other countries to do in reaction? Is not it true that the Bahamas just enacted a law declaring the spiny lobster a creature of their continental shelf, as a result of the same thing we did concerning the New England lobster?

Second. If other countries do retaliate, is this going to be limited to fishing matters, or might they not also take action against our oil cargoes, submarine transit, passage through strategic straits, and even overflight rights? May this not endanger our energy policy, and even our defense?

Third. Has not the United States strongly denounced other countries in the past for their unilaterally declaring 200-mile limits?

Fourth. Is not such a unilateral declaration totally contrary to international law? How about our fisheries treaty comments, such as the Geneva Convention of the High Seas of 1958, which guarantees the freedom of fishing on the high seas?

Fifth. Are we not supporting the Law of the Seas Conference which is taking up this matter? What will happen to this Conference if the United States ignores it, and what will happen to the related negotiations concerning such things as ocean minerals, oil and gas development, freedom of scientific investigation, and pollution control? Can we dismiss Secretary Kissinger's statement that "no international negotiation is more vital for the long term political and economic stability of our globe"?

Sixth. If, as some argue, the Law of the Seas Conference will take a while to achieve a settlement, cannot we make bilateral arrangements in the meantime, as we did last year with Japan?

Seventh. Are we not undermining the rule of law in the oceans by demonstrating that a country can do whatever it pleases with respect to offcoast jurisdiction? Are we not condoning the Cambodian seizure of the *Mayaguez*—and indeed inviting another?

Eighth. How are we going to enforce our fishing regulations in the huge area within the 200-mile limit—particularly if other nations formally reject our law, and are backed up by a sizable world opinion? Are we not inviting confrontation with the foreign fleets of countries like Russia and Japan?

Ninth. Is it fair to landlocked countries, particularly the underdeveloped ones, if coastal states take advantage of their geographical position like this?

Mr. Chairman, these are the questions I ask myself, and I reluctantly conclude that the answer to them is to vote down H.R. 200.

Mr. BURKE of Massachusetts. Mr. Chairman, I want to express my delight at the fact that we finally have on the floor a bill which I had the pleasure of cosponsoring, and which will help our fishing industry survive. We all know that if help does not arrive, and arrive fast, Atlantic, Pacific, and gulf fishermen just are not going to have anything left to fish. Back in May, a Provincetown, Mass., fisherman told a Boston Globe reporter:

> The foreign boats . . . are cleaning us out faster than they're talking down in Washington.

Needless to say, they are certainly cleaning us out faster than they are talking at the Law of the Sea Conference. When the LOS representatives met in Geneva in May, we were expecting great things to result. But the only thing they could decide was to meet again next year. Even our LOS Ambassador, John Norton Moore, said he was "frankly disappointed" at the lack of progress. The conference representatives did draft a "single negotiating text" which covers "virtually all" of the matters which we are considering here today. But we have been told that at least two more conferences might be necessary before a treaty is signed. I submit to you that if we wait until a multilateral treaty is considered, signed, and approved by the various parties concerned, the question of saving our fisheries will be academic. There will not be any fishing industry left to save.

Make no mistake about it, our fishermen are fighting for their lives—and livelihood—and they are losing the battle.

Let us consider for a moment the results of having to rely on foreign fish and fish products. Obviously, the price the American consumer would have to pay for these items would skyrocket. We have all seen what happened when foreign suppliers have us in their grasp as a captive market. The cost increases would not be limited to fish, either. Fish meal is an important component of the diet of poultry. The National Broiler Council has told me that in 1974, the poultry industry used around 400 tons of fish meal to provide vitally needed protein. It can amount to up to 6 percent of a broiler's diet. So we have price increases extending into another food product, and once again, the American shopper is asked to dig a little deeper into her purse.

The specter of our balance of payments also looms over the situation. The dollar must not be forced to shoulder the burden of another price-gouging foreign supplier. That is exactly what is going to happen if we do not establish some kind of protection for our fishing beds.

We have been told that this bill interferes with the normal diplomatic process, and that we are limiting the bargaining position of our conference representatives if we pass this bill. If we are acting prematurely, we are at least acting. If we sit on our hands and let the diplomatic process take its course, we will create more problems than we will solve. This bill does not negate any action which a Law of the Sea Conference might take. It merely provides for fishing controls until a multilateral agreement is reached.

Madam Chairman, I commend you and your committee, particularly my able colleague and neighbor (Mr. STUDDS) for overcoming many obstacles and bringing us a bill which has some teeth in it, yet still adheres closely to the ideals set forth by the Law of the Sea Conference. I am proud to offer my support to H.R. 200.

Mr. HOWARD. Mr. Chairman, I rise in support of the establishment of a 200-mile fishing limit for the United States. I am sure that Members from coastal States already realize the critical importance of this legislation for not only the fishing industry but also for the American consumer who benefits from protein-rich fish products.

To my distinguished colleagues from the great landlocked States of purple mountains and amber waves of grain, however, the pressing need for a 200-mile fishing limit for the United States may not be apparent.

I have no doubt that many of my able colleagues from these areas would be shocked to learn that there are—at this very moment—foreign fishing vessels literally sweeping the seas of fish with huge mechanized fleets—and this is taking place a mere dozen miles from our shores.

This foreign fleets are so advanced and deadly efficient in their methods that, with some of the larger vessels, live fish actually enter one end and emerge at the other processed, canned, or frozen, and ready for export. The crew size for some of the larger Soviet ships run as high as 500 to 600 men, and even the smaller ones carry 100 or so. One type of Soviet refrigerated transport is capable of carrying over 7,000 tons of frozen fish.

Compare this huge, modern, ocean-going fish factory with the typical American vessel with only a few crew members equipped with modest fishing gear at best. American fishermen simply do not have the capital that is available to the state-owned Soviet and other fleets.

Although the absence of a 200-mile limit is causing financial ruin for the American fishing industry, this is not only an economic issue. What is ultimately at stake is the continued ecological viability of major species of fish in the Continental Shelf. Soviet and other foreign fishing fleets are depleting this valuable national resource at such an alarming rate that scientists predict that certain species may become extinct in a very short period of time if we do not begin to strictly limit the wholesale slaughter that is presently taking place. Permanent environmental damage to the delicate balance of sea life on the Continental Shelf may have already taken place. This is what makes the legislation before us now all the more important.

One need only look at the example of the buffalo if there are any doubts about the capability of man to misuse his technology in such a manner that a valuable national resource is decimated. Without affirmative action by this body, commercial species of fish will certainly go the way of the buffalo.

The legislation which is before us today would extend U.S. jurisdiction over fishing on the Continental Shelf from the present 12 miles from shore to 200 miles.

It would not, as some would have us believe, extend the territorial limits of the United States at all. Every coastal nation in the world could put this 200-mile limit bill into effect and not one shipping lane or strait would be blocked to through traffic. It merely provides for U.S. management of U.S. fish resources on our own Continental Shelf. We would not tolerate a Soviet oil rig off our shores; neither should we allow indiscriminate Soviet fishing in this same area.

Mr. Chairman, I am certainly no stranger to this issue. For the more than 10 years which I have had the honor to serve the people of the Third District of New Jersey, the abuses of foreign fishing vessels—predominantly Soviet—have been a matter of constant irritation and concern.

In looking through my files the other day, I saw newspaper clippings depicting Soviet fishing vessels damaging the gear of U.S. fishermen and literally running them off the high seas with the Soviet's 30 to 40 ship maneuvers in sweeping the seas. The date of the clippings was 1967, more than 8 years ago; but they could have been dated 1975.

Just a few weeks ago, in waters off Monmouth County, a lobster boat owned by Mr. Jack Baker was actually dragged through the ocean for more than a mile by a Soviet trawler that ran afoul of Mr. Baker's lines. I submit that the American fisherman deserves better treatment than that, and this means better protection—protection that only the 200-mile fishing limit can provide.

Some have suggested that the International Law of the Seas Conference might be compromised as far as the U.S. position is concerned by this unilateral action to protect our fish resources. Nothing can be further from the truth. The Law of the Seas Conference has produced nothing thus far except an agreement to meet again. Perhaps the enactment of the 200-mile limit will serve as an inducement to the United States and other negotiators there. In any event, additional years of talking, even if an agreement is reached eventually, would constitute much too little at much too late a stage in the present struggle to save what is left of the sea life on the Continental Shelf. International agreements are futile if we do not demonstrate the will to protect American fishermen in waters close to our own shores.

Mr. Chairman, I submit that if the Soviets began tearing down our forests and hauling away the timber, the Members of this body would be up in arms, and rightly so.

If the Soviets pushed the American farmers aside and planted Soviet wheat in American fields, I am sure that my able colleagues from the great Midwest

would be manning the battlements, and I would be joining them.

If the Soviets constructed an auto manufacturing plant in this country, I have no doubt that the howl from this great body would be heard all the way to Red Square.

All that I ask is that the American fisherman be given the same consideration by the enactment of the 200-mile fishing limit.

Mr. AuCOIN. Mr. Chairman, I urge my colleagues to pass this landmark legislation. I know that there are those who are working hard to discredit this bill. They have raised a lot of questions that would trouble any Member of Congress who may not be well acquainted with the central issues involved.

What is the central issue? The issue is the devastating waste and abuse of today's ocean resources.

I am talking about the fact that some species of ocean fish have been overharvested to the point of commercial extinction.

I am talking about the fact that other species are destined for the same fate if we simply sit on our hands and do nothing about it.

I am talking about the fact that foreign fleets are laying siege to America's offshore fisheries—sweeping up fish with little if any regard for the concept of sustained yield or other conservation practices.

I am talking about the fact that the American commercial fishing industry is decaying today because the developments I have described have crippled its annual catch, crippled its ability to attract capital and crippled its ability to attract young fishermen to the industry.

How have these things occurred? They have occurred because the traditional concept of the completely open high seas has—in today's world—not meant freedom so much as a lack of responsibility—a lack of responsibility for the living and mineral resources of the seas.

Mr. Chairman, the law of the sea has almost become the "law of the jungle"—each nation free to exploit the resources of the sea at will; but no nation responsible for the consequences.

Those consequences are tragic, Mr. Chairman.

Beyond the damage to fishing, there are serious environmental losses. The Mediterranean, for example, is in such a tragic state it has been called a "dead sea." Portions of the Pacific and Atlantic are known to scientists as "deserts"—incapable of sustaining significant sea life.

The question today is simply this—are we or are we not going to do anything about these events?

We have an opportunity to do something right now.

This Nation—and every nation—should extend their coastal fishing jurisdictions in order to stop the damage that is currently being done.

Some 40 nations have already done so.

If we can do this, too, we can protect our ocean resources while the world waits for a lasting international treaty to be worked out.

That is the issue here today. No reasonable person opposes an international treaty. But the question is: What will happen to our ocean resources while we wait for the treaty?

We have been waiting in vain for 17 years. As we have waited, our resources have been steadily depleted. And now the State Department tells us to wait once again—until the next round of international negotiations begins in New York next year.

This is the same Department that told us in 1958 to wait until the international conference in Geneva had met. We waited, but the agreements which were reached did not protect our fisheries from continued assault.

In 1960, the Department told us to wait again—until another Geneva conference was concluded. We did, but again the diplomats failed to produce.

Mr. Chairman, this story was reported in 1974 in Caracas and again in 1975 back in Geneva.

And yet the State Department is asking this Congress today to wait again—for yet another international conference.

Those diplomats have been talking for 17 years and all they have agreed on is the form of the document they intend to debate.

Mr. Chairman, this country can wait no longer. The problem of the world's ocean resources can wait no longer.

I contend that passage of this bill will hasten an international treaty, not hinder it, because it will tell the world that on this issue America means business.

Finally, let us pass this bill.

Mr. BONKER. Mr. Chairman, I rise in support of H.R. 200. I ask unanimous consent to revise and extend my remarks.

As a cosponsor of this legislation and as a member of the Merchant Marine and Fisheries Committee, I took part in the many days of hearings and hours of subcommittee and full committee discussion that resulted in the bill before this House today.

This bill would extend the contiguous fisheries zone of the United States to 200 nautical miles and would give the United States management authority over anadromous fish spawned in our waters throughout their migratory range.

The reason for this extension of jurisdiction is to manage and conserve valuable marine resources presently threatened by overfishing. This is an interim measure and will terminate automatically at the time an acceptable international agreement on the question of fisheries jurisdiction is forthcoming from the United Nations Law of the Sea Conference.

We must act now. We cannot afford to sit idly by while the rape of our fisheries resources off our coasts continues. The list of fish stocks off our shores which are being depleted grows each year. Scientists have now concluded that approximately 25 different stocks of fish are at such a low level that they are either considered to be depleted or threatened with depletion. The following is a list though not necessarily complete, of stocks which are either damaged or threatened off U.S. coasts at present and are of direct interest to U.S. fishermen: haddock, halibut, herring, and menhaden in the Atlantic; salmon, mackerel, and hake in the Pacific. It is because of the rapid decline of these and other species of fish that the United States must exert management control over a 200-mile zone, a zone which roughly encompasses nearly all of our Continental Shelf and nearly all of our important coastal species.

This bill is essential if we are going to make a serious effort to prevent depletion of our fisheries resources. Actually the bill is patterned after our U.S. fisheries position as put forth in the Law of the Sea Conference.

At the moment this is the only way we can provide this Nation with the management authority needed to enact and enforce conservation measures. Just Monday of this week I received, as I am sure most of my colleagues in this House did, a wire from the 20,000 members of the National Federation of Fishermen urging the passage of this legislation.

I think it is shocking that approximately 75 percent of all living marine resources harvested off our coasts are taken by foreign fleets. What was once a great industry in our Pacific Northwest is now struggling for its life. The U.S. share of the world catch of fish has been rapidly declining. This in the face of an increasing consumption of fish and fishery products by residents of the United States.

In 1969, the residents of the United States consumed 1.94 million metric tons of seafood and in 1970 that had grown to 2.8 million metric tons. This is an increase of almost 45 percent. Most of this increase was met by imports. To give you an idea of this growth of imports, in 1950 the United States imported only 23.4 percent of its seafood, but in 1972 imports were over 60 percent. This desire for seafood has also led to an adverse balance of payments of $1.3 billion in fish and fisheries products, up 318 percent since 1960. In short, although fisheries play a growing role in our national diet, our domestic fishing fleet catches less and less of the fish consumed.

The decline taking place in many of our fisheries off our coasts are coincidental with the increased foreign fishing in major areas along our Continental Shelf and beyond our existing 12-mile fishery jurisdictional limit.

Mr. Chairman, I have heard only one argument against this legislation. It comes in two parts: First, the U.S. Government should not act unilaterally, but patiently negotiate something at the Law of the Sea Conference; and second, this legislation as it is presently written will tamper with existing U.S. fishing agreements and treaties.

These are unfounded claims.

This bill represents good foreign policy. It recognizes, just as does the Sinai agreement, part of which we passed overwhelmingly yesterday, that reliable and stable international accords are best based upon forthright recognition of national interests. H.R. 200 will hasten and insure the durability of future international treaties regarding marine resources.

It is a gentle push toward international agreement. It follows recent State Department doctrine that we must take small steps when conditions are not ripe

for overall international settlements of disputes and problems.

This bill does retain the element of flexibility in diplomacy which is so important to our Secretary of State. In fact, it encourages him in one of his favorite pastimes—renegotiation of treaties and agreements. And as Dr. Kissinger recently stated before the American Bar Association:

> The United States cannot indefinitely accept unregulated and indiscriminate foreign fishing off its coast.

Those who say they are in favor of a 200-mile zone but prefer to go through the Law of the Sea Conference may not understand the immediacy of the worldwide fishing crisis. Even the more optimistic participants at the conference say that nothing will be accomplished in the 1976 session and it may be 5 years before any action is taken. By that time there will be no fishery stock to worry about.

We can no longer afford to sit on our hands waiting for an international agreement. The normal process of negotiating fishery agreements has been time consuming and complex. More and more nations are taking unilateral action and established 100- and 200-mile limits.

At the present time the United States is party to 20 international fishing agreements and periodically engaged in bilateral and multilateral negotiations with foreign nations to restructure these treaties and to frame new ones which seek to conserve fish resources. An indication of the lack of success of these treaties is the fact that nearly all of the stocks of fish considered to be depleted or threatened with depletion are subject to these international agreements. Past experience shows that international agreements have not solved the problem of achieving timely and effective programs for the protection of fish stocks.

Contrary to some views, this bill accomplishes two things in the interest of the United States and the whole world: interim protection of drastically depleted fisheries stocks, and impetus toward action on an international marine resources agreement. Let us get on with both.

My colleagues, action is needed now. If we are to conserve this valuable and finite resource, H.R. 200 must be acted upon favorably by the Members of this House. I urge you to vote "aye". We cannot wait forever for a treaty.

Mr. BOWEN. Mr. Chairman, I appreciate the opportunity to make a statement on the floor today in behalf of H.R. 200, a bill which I am cosponsoring to extend the limits of the U.S. coastal waters from 12 to 200 miles in order to protect our domestic fishing industry from extensive and growing foreign encroachment.

I want to commend the distinguished chairman of the Merchant Marine and Fisheries Committee for her handling of this important legislation in our committee. I have been privileged to serve under her leadership for 3 years on this committee, and I appreciate the job she has done, particularly in bringing this bill to the House floor today.

The fishing industry is very important to the economic well-being of our Nation and my own State of Mississippi. We have an extensive fishing and seafood industry centered on our own Mississippi gulf coast, and our fishermen there are deeply concerned about the growing encroachment in the coastal waters of the United States by foreign fishing fleets from such nations as the Soviet Union, Cuba, Japan, and elsewhere. Our people are concerned that their livelihoods and economic stability have some measure of protection from the advanced technology and predatory nature of these foreign fishing fleets.

I cannot urge too strongly the need for this legislation, and I am sorry that the State Department and the Ford administration have seen fit to oppose it.

Our fishermen in the Atlantic, gulf, and Pacific coastal areas need this legislation. They need it now, before these foreign fishing fleets decimate those traditional fishing beds upon which our domestic fishermen rely for their livelihoods.

The Merchant Marine and Fisheries Committee has worked extensively this year on this legislation. All implications have been thoroughly examined by the committee. This is a good bill. The time has arrived for its passage. I urge my colleagues in the House of Representatives to vote for H.R. 200.

Mrs. HECKLER of Massachusetts. Mr. Chairman, the central issue before us is the question of whether or not the United States should act unilaterally in terms of dealing with the problem of fisheries management, and it is my view that the failure of this year's Law of the Sea Conference to take substantive action in this regard requires a unilateral initiative by the United States.

Even if this legislation is passed today and is later enacted into law, it is too late for many fishermen in my district. One of my constituents, a lobsterman from Westport, Mass., has lost everything—all of his 300 traps and all of his 9,600 fathoms of line. And the fishermen who continue to fight for survival are losing their battle. For years, foreign fleets have displayed a blatant disregard for the American fisherman and his equipment. Foreign ships have been causing untold thousands of dollars in lost and destroyed U.S. fishing equipment by, either intentionally or unintentionally, steaming through clearly marked fishing areas. In some cases, lives of U.S. citizens have been imperiled by these large trawlers cutting dangerously close to U.S. ships. In all cases, the livelihood of our fishermen has been endangered.

Earlier this year, in an effort to express their desperation and symbolize their will to survive, I introduced a letter of marque. Unused since the War of 1812, the letter of marque is a special commission provided for in the Constitution to allow private vessels to go out on the high seas and seize by force the ships of another country which are threatening our national interest.

While I did not expect the Congress to enact this measure, it was my hope that the existence of this resolution in the 94th Congress, 161 years after the last letter of marque was issued, would help focus attention on the plight of fishermen and the danger we confront of losing control of our native fishing grounds.

By international law, all nations have the right to fish the high seas. There is no international provision, however, to assure the conservation and management of these ocean resources—there is no incentive for responsible fishing methods. On the contrary, international law encourages the depletion of ocean resources by offering them on a "first come, first served" basis. Scientists report that 25 stocks are already dangerously depleted, including several vital to U.S. fishermen, and this depletion can be traced to the large and sophisticated foreign fleets—fleets which have modern equipment and are usually subsidized by their respective governments. The American commercial fishing industry has no such subsidy and is composed of many privately owned, small operations. It is therefore at a severe competitive disadvantage. Couple this with the foreign fleets' irresponsible "hit and run" tactics, and there is no competition at all.

It is imperative that we recognize our fishing stock as a vital national resource and act to prevent its continued depletion, just as we prohibit the depletion of our inland resources. The oceans are no longer a great cornucopia of endless supplies of fish. The advent of more efficient fishing techniques and a growing demand for fisheries products have demonstrated that there is a pressing need for a rational conservation and allocation system for the living resources of the oceans.

But we must act now. Time is not on our side. Our fishermen face extermination on the high seas; they see the danger—they face it every day. It is time that we respond to their call for aid and end the callous plunder of our limited ocean resources.

H.R. 200 extends the U.S. exclusive fisheries zone from 12 to 200 miles, although fishing by approved foreign states will be permitted. It also provides for the development of regional management plans and regulatons to control zone fishing and migratory fish over their range. H.R. 200 also authorizes and provides for the administration of seven regional marine fisheries councils. The committee estimates the cost through fiscal year 1981 to be $655,121,000.

AMENDMENTS

To insert a definition of internal waters as those waters shoreward of the outer limit of the territorial sea of the United States.

To amend "highly migratory" species to mean only tuna—to exclude billfish.

To strike section 202 regarding existing treaties and their renegotiation.

To strike section 203 requiring the State Department to renegotiate tuna agreements and the embargo provision.

To strike the embargo provision.

To strike section 206 regarding congressional disapproval of certain international fisheries agreements.

To decrease the number of marine fisheries councils for the Atlantic Coast from three to two.

To require State Fish and Game commissioners to sit on the councils, rather

than allowing the State Governors to appoint a member.

To require that management plans must have the consent of the regional councils before implementation.

To strike section 309 allowing the Secretary to override State regulation to impose a Federal management plan.

To insert "knowingly and willingly" in section 310 for civil violations.

Mr. DRINAN. Mr. Chairman, traditionally, a basic principle of freedom of the seas has been that fishermen of the world have open access to the fish stocks of the high seas. Until recently, this historical principle has underscored a workable arrangement for the fishing of the world's oceans. During the last 15 years, however, modern fishing techniques, an increase in the world's fishing activity, the rising world population, an increased demand for fish products, and the absence of meaningful conservation methods have resulted in the depletion of or threatened depletion of approximately 25 stocks of fish.

The realization that the seas' resources are limited and critically threatened has led to national and international movements for greater control over fishing activities. Since 1974, the United Nations' Law of Sea—LOS—Conference has been attempting to reach agreement on various maritime issues, including territorial and economic zones. A consensus seems to have emerged among delegates to the Conference on recognition of 200-mile economic zones. As of July, 1974, this concept has been supported by the United States. The LOS Conference, which is in the process of resolving other pending issues, is scheduled to meet in March of 1976. During the last 25 years, in the absence of an established international agreement, approximately 40 nations have unilaterally extended their fishing domains beyond the traditional 12-mile limit.

This state of affairs has merited a reassessment of the current territorial jurisdiction of the United States. This is particularly true in light of the fact that our domestic fishing industry is seriously threatened as a result of unrestrained foreign competition. Numerous international agreements have to date proved useless as tools for protecting and conserving U.S. coastal fishery stocks and for maintaining a viable fishing industry along America's coastlines. The Merchant Marine Fisheries Conservation Act of 1975 (H.R. 200), the legislation before us today, will guard our coastal fish and our fishing industry against decimation by foreign fishing activities.

Mr. Chairman, I am a cosponsor and supporter of H.R. 200. This legislation would extend on an interim basis the U.S. exclusive fisheries zone from 12 to 200 miles effective July 1, 1976. The bill would establish a comprehensive fishery management program through the creation of seven regional marine fishery councils. The legislation also gives U.S. fishermen preferential rights within the 200-mile zone and mandates that foreign vessels fishing within the zone receive permits from the Secretary of State. In addition, H.R. 200 provides for an embargo of seafood imports from foreign nations which do not grant U.S. fishermen equitable access to waters traditionally fished by those fishermen.

Enactment of H.R. 200 at this time is imperative; the need for this legislation is critical. The present and future welfare of this Nation's fish stocks and of our domestic fishing industry depends on passage of this legislation. I am particularly aware of the difficulties faced by fishermen because the fishing and lobstering industry in my own State of Massachusetts represents a significant part of the economy. The take of fish by New England fishermen off that region's coast has remained relatively stable, or has declined in the past 15 years, while foreign nations fishing in this area have experienced monumental gains. It is clear that the work of foreign fishing fleets off the coasts of the United States must be regulated and curtailed in order to prevent unalterable damage both to our fish stocks and to the American fishing industry.

Mr. Chairman, opponents of H.R. 200 have set forth various arguments against enactment of this bill. Principal among these arguments is the contention that H.R. 200, if enacted, would seriously jeopardize the negotiations at the Law of the Sea Conference. I agree wholeheartedly with those who cite the importance of our commitment to negotiations on this extremely complex issue through the LOS Conference. It is imperative that these negotiations go forward. I believe firmly, however, that immediate interim action by this Nation is necessary to conserve many of our fish stocks and to protect our domestic fishing industry. The accomplishment of these simple goals solely through the LOS Conference negotiations will involve, even in the most optimistic predictions, a matter of years. Action to prevent the further depletion of our fishing resources cannot be postponed. Even with enactment of H.R. 200, the 200-mile limit would not go into effect until July 1976. Since the LOS Conference is meeting in the early spring of 1976, there is still time for the delegates to reach agreement.

Mr. Chairman, I urge my colleagues to support H.R. 200. The fishery resources of the oceans are not inexhaustible; our domestic fishing industry is not being adequately protected against unfair competition by foreign fishing fleets. The Merchant Marine Fisheries Conservation Act of 1975, the most significant fisheries legislation of the past decade, will establish methods for the preservation of the marine environment and will address the plight of the American fishermen. The dangers of inaction are great. Without enactment of this legislation, we face the possibility of irreversible damage to the fish of our coastal waters and to the American fishing industry alike.

Mr. GRASSLEY. Mr. Chairman, I am pleased to see in this bill, proof that those who promote a healthy economy, and those who support a healthy environment need not always be in conflict. Through the passage of H.R. 200, we will save from extinction both our fish and our fishermen, to the benefit of the whole Nation.

Mr. HARRINGTON. Mr. Chairman, the House today takes up the important question of whether or not the United States should establish a 200-mile fishing limit. I strongly support the proposal and wish to briefly explain my reasons for doing so.

By establishing the 200-mile limit and creating fishery conservation zones within it, we would be taking a major step to revitalize the diminishing fish population in our oceans, which have declined drastically in the past 25 years due to the saturation fishing methods used by foreign fishing fleets.

I should point out at the outset that I view the 200-mile-limit extension as an interim solution to an extremely critical problem. I do not usually favor unilateral action of this nature, and I frankly hope that it would not become habit forming particularly during the ongoing discussions of the Law of the Sea Conference.

The fact remains, however, that the existing law of the sea, from the Geneva Accord of 1959, and the present treaty alliance in the Northwest Atlantic have not been successful in managing fisheries resources in the Northwest Atlantic.

So serious is the decline of certain species that the Canadians, facing considerable financial loss and diplomatic risk, closed their Atlantic ports in July to the Russian fleet in protest of continuing over-fishing and inability of the International Commission on Northwest Atlantic Fsheries to reduce quotas and close off certain areas where threatened species have drastically declined.

Only last week, at a special meeting of ICNAF in Montreal, after a 10-percent reduction in quotas has been achieved and certain areas in the Northwest Atlantic were closed off to large—155 feet—fishing trawlers, did the Canadians and Russians restore relations and reopen ports. Those achievements were probably only possible due to the awareness by member nations that action in the 200-mile fisheries jurisdiction was imminent.

Of course, despite the recent events in Montreal, there is no guarantee that over-fishing will cease off our coast and that the 17 member nations of ICNAF will take appropriate action to stop infringements by their own fleets which are cited for offenses. The United States and Canada are powerless, under present jurisdictional laws, to take appropriate action to protect and restore remaining species—other than impounding violating vessels if they come into port.

We have, to date, depended on an international honor system in the northwest Atlantic under ICNAF which has a 25-year record of abuse and failure to protect fisheries resources. We can no longer do so. We should have the power now to establish a rational fisheries management program to establish a threatened resource, which properly managed, could provide more protein for all nations in the long run.

While I remain hopeful that a negotiated settlement will be forthcoming I firmly believe that if we wait for the Law of the Sea decisions which are approximately 3 years away, we will have very little left to protect and restore. We will

have witnessed the death of a 350-year-old industry, the domestic fishing industry, upon which the economics of the original colonies were built, during the celebration of our own Bicentennial. Our choices are clear and the need for positive action is evident. I strongly urge my colleagues to join with the 148 cosponsors of H.R. 200 in voting for passage of this important measure.

Mr. BIAGGI. Mr. Chairman, I rise in unqualified support of H.R. 200, legislation which will extend the United States exclusive fisheries zone from 12 to 200 miles. As a cosponsor and a member of the committee which reported out this bill, I consider its passage critical if we are to curb the rapid destruction of our fishing industry.

This bill has other important provisions in addition to the extension of the fishing boundaries. Any foreign vessel fishing within the 200-mile zone would be required to receive a fishing permit from the Secretary of State. The application would be considered as an international agreement and the Congress would have 60 days in which to disapprove of the action. Penalties which could be imposed on the offending nations would include an embargo of all imported fishing products of that nation.

The bill will also establish seven regional marine fishery councils whose primary responsibility it will be to promulgate plans to promote conservation of endangered fish species in their respective geographic areas.

Both the need and the call for extension of our fishing limits have been a long time in coming. As far back as 1945, President Truman proposed a series of conservation zones to control fishing in areas where it would occur on a substantial scale. This was in reaction to repeated Japanese incursions into the Alaskan salmon fishery. As a direct result of Truman's proclamation, nearly 40 nations extended their fishing zones to the present 12 miles.

In recent years the demands and urgency to extend our fishing limit have become more pronounced. This Nation, despite being victimized by the existing fishing limit, chose to participate in international conference which would determine the extension of fishing limits on a universal basis. As a member of the Merchant Marine Committee, I attended this year's Law of the Sea Conference in Geneva and came away from the meeting frustrated by the fact that the conference was years away from taking final action on this important matter. This Nation can ill afford to wait another 2 to 5 years before we implement a 200-mile fishing limit. Both the drastic reduction in the numbers of fish caught by the U.S. fishermen and the overall clamoring of the American people for an extension, have brought us to this point today.

There are those who object to the United States taking this action on a unilateral basis. Yet I contend that this position is justifiable for our Nation has suffered on a unilateral basis from the rampant piracy of our fish supplies and reserves by greedy foreign nations. Several months ago in my capacity as chairman of the Subcommittee on Coast Guard and Navigation, I flew off the coast of New York to determine the extent of violations of our fishing laws by foreign vessels. I was astounded to find no less than 12 different vessels representing various foreign nations to be in violation of our fishing laws. It is imperative from the standpoint of the survival of our own fishing industry that this Nation pass H.R. 200, and by postponing the date of implementation to July 1976 it is hoped that the Law of the Sea Conference will complete action on a similar proposal to be applied multilaterally.

The extent of the destruction of our fishing industry must be noted. In addition to the dramatic increase in the size of the foreign catch of fish, the U.S. share of fish caught off the east coast has declined from 93 percent in 1960, to 50 percent in 1974.

Meanwhile, our consumption of fish has doubled in the past 20 years, causing us to import fish in unprecedented quantities, thus perpetuating our balance of payments deficit in fish products which has increased by over 318 percent since 1960.

I am proud to be associated with a bill so universally acclaimed by the American people. They see no reason why this Nation must tolerate the consistent assaults on our fishing industry by foreign nations. This Nation has sought to adhere to the 12-mile limit yet has encountered innumerable problems. During the past several years, U.S. tuna boats fishing off Ecuadorian waters were seized by the government and the fish caught were confiscated. The government only claimed to recognize a 3-mile fishing limit.

Despite our own adherence to the law, we have been lax in our enforcement of the law as it pertains to foreign vessels operating off our own coast. The citizens of the United States who are great consumers of fish have been forced to endure interminable increases in the price of fish due to the depletion of supplies and reserves. They recognize the importance of fish as a component of a nutritional diet. As mentioned, the U.S. fishing industry has suffered tremendously under existing law. Failure to enact this legislation could result in the ultimate collapse of this very important American industry.

This bill contains important environmental benefits as well. We are seeking to control the seizure of endangered fish species which face extinction unless some form of control is instituted. The Merchant Marine and Fisheries Committee has been in the forefront of the battle to protect endangered species from extinction. I point to the Ocean Mammals Protection Act of 1972 as one bill, today's is another.

Let me add that this bill enjoys widespread support in this Nation. It has received the endorsement of the AFL–CIO, major environmental groups, and the fishing industry, as well as the National Advisory Committee on Oceans and Atmosphere, which in a report to the President, recommended the implementation of a 200-mile fishing limit.

I urge swift passage of this legislation today. It is long overdue and its enactment is important for the benefit of the American fishing industry as well as the American consumer.

Mr. PIKE. Mr. Chairman, I rise in support of H.R. 200. I realize that what we are doing here today in consideration of this bill portends something of a minor annoyance downtown, both at the White House and in the Department of State. Both the President and the Secretary of State are long since on record as opposing any precipitate action by Congress which would preempt what the Law of the Sea Conference is supposed to be doing towards resolving the touchy issue of the sovereignty of nations over their territorial seas, and especially the precious marine resources encompassed within them.

But the fact of the matter is that the stately, slow and measured pace of the Law of the Sea Conference towards resolution of the issue and manifested thus far should give no one any great hopes that they are going to reach the promised land anytime soon. Meanwhile, I can assure you that what remains a minor annoyance downtown continues to flare out as a major, burning issue to U.S. commercial fishermen and sport fishermen, and nowhere more brightly and more heatedly than among the commercial fishermen and sport fishermen in New York's First Congressional District. For too many years now they have had to tolerate the depredations of foreign fishing fleets, as numerous, as modern, as efficient as subsidies paid by their governments can make them, running amuck off our shores, not only thumbing their noses at a few hardy U.S. fishing vessels that venture into their midst, but sometimes literally running roughshod over them. As a result, we are informed, approximately 25 stocks of fish have become dangerously depleted. While I can not attest to the absolute reliability of that data, as an inveterate weekend fisherman on the Atlantic Ocean off the shores of Long Island, I can personally attest that some species formerly in abundance have become rare in my own lifetime.

I have repeatedly introduced bills similar in intent to H.R. 200 and I am happy to lend my support to H.R. 200 today. I commend the work of the Merchant Marine and Fisheries Committee under the distinguished leadership of the gentlelady from Missouri. I wish to assure her that she and her committee colleagues on both sides of the aisle have earned the gratitude of thousands of my constitutents in whose behalf I thank the entire committee for this signal and long-awaited legislative accomplishment.

Mr. ST GERMAIN. Mr. Chairman, when I arrived in Washington in 1961 as the newly elected representative of the First Congressional District, I was acutely aware of the plight of a considerable segment of my constituents in Rhode Island whose livelihood was in the greatest jeopardy. My State's domestic fishing industry was, as the result of the depredations of foreign fleets, at the lowest ebb.

Huge, supermodern and Government-subsidized foreign fleets appeared in ever-increasing numbers in our tradi-

tional fishing grounds, and their disregard of sensible conservation measures soon depleted our fish resources so alarmingly that it will be generations before we can hope to see the balance restored.

Naturally, one of my first legislative efforts was directed toward the correction of this long neglected abuse through the establishment of a 200-mile coastal limit. That was 14 years ago, and the conditions which then seemed insupportable are now absolutely disastrous. It is imperative that the Congress face the problem positively, and take immediate action to protect and restore one of our most treasured natural resources by voting in favor of H.R. 200.

By the establishment of a 200-mile coastal limit as delineated in H.R. 200, sound conservation measures will be put into effect immediately, and the Nation's fishermen will benefit from clearly defined protective strictures. No more will those enormous fleets from other nations make free with our traditional fishing grounds. Incidents, such as the loss of $150,000 in lobstering equipment suffered by Rhode Island- and Massachusetts-based fishermen early in January 1975 as the result of the reckless and immoderate fishing practices of a foreign power, will no longer be tolerated.

We owe posterity the preservation of our natural resources, and passage of this legislation is but one step toward that great goal.

Mr. CONTE. Mr. Chairman, I rise in support of H.R. 200, which is a bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish, in order to protect the domestic fishing industry and for other purposes.

I was pleased to cosponsor this bill which should prove to be a tremendous help in our efforts to conserve and manage fisheries resources found off the coasts of the United States, and the anadromous fisheries resources of the United States in the high seas.

If we are to safeguard the well being of commercial and recreational fishing off the coast of the United States for American, as well as foreign, commercial and recreational fishing interests, this legislation must be passed.

The vast operations of foreign fishing fleets have caused a vast depletion of stocks in our coastal waters and the area within which this bill is designated to reach. Commercial fishing in the high seas and off the coast of the United States has become a veritable field of exploitation of our limited fisheries stocks.

The United States catch rose only from 4.3 million tons in 1938 to 4.7 million tons in 1973, while the estimated catch for foreign nations have more than tripled in the same time period. Another tragic aspect about the serious depletion of commercial fishing stock is the effect on recreational fishing. All too often dolphins and the beautiful marlin and sailfish are caught within schools of commercial fish and are not returned to the sea. The result has been a severe depletion in the numbers of these beautiful gamefish, which will face extinction without the necessary management and conservation efforts contained in this bill.

I should now like to review the main argument set out by opponents of this bill. It is their position that unilateral action by the United States—that is passage of this bill—would jeopardize any international agreements which might take place between 148 participating nations at the March 1976 Law of the Sea Conference. I should like to emphasize to my colleagues that this bill is an interim measure and would be superseded by any international agreements in which the United States might participate. It is clear that it may take several years before a workable international agreement can be ratified by all the 148 member nations.

In the interim period when this bill would apply, the management and conservation measures provided in this bill would be in effect to insure a continuing supply of commercial and game fish for all nations. This bill is not designed to prejudice any foreign fishing interests. On the contrary, it is designed to protect the availability of the various species for United States and foreign commercial and recreational fishing for years to come.

Now I should like to address myself to a problem I alluded to earlier—the severely depleted gamefish stocks. This bill exempts "highly migratory species" from Federal fisheries management authority. This exemption was placed in the bill in deference to the tuna industry. Opponents of this bill should be pleased to note that the foreign tuna fishing fleets would not be subject to any of the management provisions of this bill. Unfortunately, international agreements define "highly migratory species" as including tuna as well as a wide variety of gamefish such as swordfish, sailfish, sharks, dolphins, white, blue and striped marlin, as well as many other species of gamefish. These gamefish are in danger of virtual extinction in the next decade if we do not take drastic conservation efforts immediately.

Just to serve as an example of the serious state the future holds for recreational fishing, let us review some startling statistics affecting the marlin alone. The overall catch rate—fish per 1,000 hooks—for the beautiful white marlin declined from 2.06 in 1956 to 0.80 in 1970. Also the overall catch rate for the blue marlin fell from 3.81 in 1962 to a serious low of 0.29 in 1970—a 92 percent drop. Recent statistics show that the decline is ever-increasing. To remedy this situation, I plan to offer an amendment to limit the definition of "highly migratory species" to the various species of tuna. This would effectively place the many species of endangered gamefish under the auspices of Federal fisheries management protection.

It is most important that we realize that conservation and respect for inhabitants of the sea is equally as vital as our efforts on the shore. Prolonging legislation such as this will only result in later more drastic conservation efforts. What assurances do we have that the 148 member nations will reach a viable international agreement to accomplish the ends this bill sets out to—none. Even though passage of this bill might be opposed as an unwise unilateral action—we must recognize that it is only an interim measure to stay in force until the 148 member nations of the Law of the Sea Conference reach an agreement.

Fellow Members, let us not forget our recent and most welcomed visit by Emperor Hirohito and Empress Nagako of Japan. On each step of their journey throughout the United States, the royal couple saw signs pleading for their assistance in saving the whale from virtual extinction.

Fellow Members, Americans across this Nation recognize the need for this legislation, as well as the continuing injury that will result from prolonging its long-awaited passage.

Thank you, Mr. Chairman.

The CHAIRMAN. If there are no further requests for time, the Clerk will read.

Pursuant to the rule, the Clerk will now read by title the substitute committee amendment printed in the reported bill as an original bill, for the purpose of amendment.

The Clerk read as follows:

H.R. 200

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Marine Fisheries Conservation Act of 1975".

SEC. 2. CONGRESSIONAL FINDINGS, POLICY, AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares the following:

(1) Coastal species of fish which inhabit the waters adjacent to the United States, highly migratory species of the high seas, species which dwell on or in the Continental Shelf, and anadromous species which spawn in United States rivers and estuaries, constitute an irreplaceable resource which contribute to the food supply and economy of the Nation as well as to the health and recreation of its people.

(2) Stocks of fish which United States fishermen depend upon have been the target of concentrated foreign fishing which has increased dramatically during the past decade. Certain coastal and anadromous species are depleted to the point where the survival of the fisheries is threatened and others have been substantially reduced in number, as the result of continued overfishing and failure to initiate or to observe sound conservation practices.

(3) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon the fishing industry as the foundation of the local economy. The depletion of fishery resources at an ever-increasing rate over the past decade threatens the social and economic fabric of those coastal regions where fishing and related activities are the principal source of employment.

(4) United States fishermen, confronted by massive foreign fishing fleets in coastal waters of the United States, have suffered extensive interference with their fishing efforts and destruction of their gear under circumstances which render it virtually impossible to secure compensation.

(5) International agreements have not been effective in halting the depletion of valuable coastal and anadromous species caused by such overfishing; and even to the extent that international agreements might ultimately prove to be effective, there is danger that irreversible depletion of such species will take place before such agreements can be negotiated, signed, ratified, and implemented.

(6) Fishing for coastal and anadromous

species is carried out in part on the high seas off the coasts of the United States by United States and foreign vessels where no regime of law, except for specific international agreements, applies to govern fishing or to require conservation practices.

(7) Fisheries resources are renewable and if placed under sound management before depletion has caused irreversible effects, can be restored to provide optimum sustainable yield. It is therefore in the national interest and in the interest of all nations and peoples engaged in fishing on the high seas to provide effective management programs that will both maintain the optimum sustainable yield of fisheries resources and support the commercial and recreational fishing industries.

(8) Developing international law, as proposed in the informal single negotiating text recently prepared at the Third United Nations Conference on the Law of the Sea, proposes primary coastal state management and preference over coastal species in an economic zone extending to 200 miles beyond the baseline of the territorial sea, and primary host state management and preference over anadromous species.

(b) POLICY AND PURPOSES.—It is therefore declared to be the policy and purposes of the Congress under this Act—

(1) to conserve and manage the fisheries resources found off the coasts of the United States and the anadromous fisheries resources of the United States in the high seas by establishing an exclusive fisheries conservation and management zone in the area extending 200 nautical miles seaward of the United States within which the United States will assume management responsibility and authority over all fisheries resources, except highly migratory species, and by declaring fisheries management responsibility and authority on the high seas beyond such zone with respect to anadromous species;

(2) to support and encourage international measures for the conservation and management of highly migratory species on the basis of regulations consistent with the terms of any applicable international fisheries agreement;

(3) to promote the commercial and recreational fishing industries of the United States in order to maximize under sound conservation and management principles the production of food from the sea and the recreational opportunities of the American people;

(4) to establish management programs which will achieve and maintain an optimum sustainable yield from fisheries resources under circumstances which can enable the States, the fishing industry, consumer and environmental organizations and other interested persons to participate in or advise on the establishment of management plans and regulations, and in the development of such programs in regard to stocks of fish, to consider the social and economic needs of the coastal States along which such stocks abound;

(5) to permit foreign fishing within the fisheries zone established by title I of this Act consistent with the conservation requirements of the various stocks, if there are excess stocks of fish not being utilized to the optimum sustainable yield by United States commercial or recreational fishermen, after there is taken into account the efforts of United States fishermen to develop new and expanded fisheries, and the fact that certain stocks of fish which United States fishermen have been heavily dependent upon are now seriously depleted largely as a result of foreign fishing;

(6) to support and encourage continued active United States efforts to obtain an internationally acceptable treaty at the Third United Nations Conference on the Law of the Sea, and particularly to seek effective conservation of living ocean resources;

(7) to maintain without change the existing jurisdiction and rights of the United States in the Continental Shelf and the waters superjacent thereto for all purposes, other than the protection and conservation of fisheries resources as provided by this Act; and

(8) not to authorize any impediment to, or interference with, lawful activities on the high seas, except with respect to the protection and conservation of fisheries resources as provided by this Act.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "anadromous species" means those species of fish which spawn in fresh or estuarine waters of the United States and which migrate to ocean waters.

(2) the term "coastal species" means all species of fish other than any species referred to in paragraphs (1), (3), and (13) of this section.

(3) The term "Continental Shelf species" means any Continental Shelf fishery resource as defined in section 5(a) of the Act of May 20, 1964 (78 Stat. 196; 16 U.S.C. 1085(a)).

(4) The term "depleted", when used with reference to any species of fish, means that a stock of the species has been so reduced, as a result of overfishing or any other cause induced by man, or as a result of any natural cause, that a substantial reduction in fishing effort must be immediately achieved in order that the stock can replenish itself and once again provide an optimum sustainable yield.

(5) The term "fisheries zone" means the fisheries conservation and management zone established by title I of this Act.

(6) The term "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than birds or marine mammals.

(7) The term "fishery" means the business, organized activity, or act of fishing for a particular stock or species of fish (or for two or more stocks or species which are caught simultaneously or otherwise caught together) which by virtue of its geographical, scientific, technical, recreational, and economic characteristics is capable of being regulated as a unit.

(8) The term "fishing" means the catching, taking, harvesting, or attempted catching, taking, or harvesting, or any action which can reasonably be expected to result in the catching, taking, or harvesting, of fish for any purpose, and any activity at sea in support thereof.

(9) The term "fishing vessel" means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for—

(A) fishing; or

(B) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, supply, storage, refrigeration, transportation, or processing.

(10) The term "high seas" means all waters beyond the territorial sea of the United States.

(11) The term "international fisheries agreement" means any bilateral or multilateral treaty, convention, or agreement relating to fishing to which the United States is a party.

(12) The term "Marine Fisheries Commission" includes the Atlantic States Marine Fisheries Commission, the Gulf States Marine Fisheries Commission, and the Pacific Marine Fisheries Commission established by interstate compact.

(13) The term "highly migratory species" means any species of fish which spawn and migrate during their life cycle in waters of the high seas, in and outside the fisheries zone, including, but not limited to, tuna; but excluding halibut, sablefish, and herring.

(14) The term "optimum sustainable yield" means a yield which provides the greatest benefit to the United States as determined on the basis of the maximum sustainable yield of a stock or stocks of fish as modified by relevant ecological, economic, and social factors.

(15) The term "person" means any individual, corporation, partnership, or association (whether or not such individual is a citizen or national of the United States, or such entity is organized or existing under the laws of any State), and any government or entity thereof.

(16) The term "Secretary" means the Secretary of Commerce.

(17) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the possessions of the United States.

(18) The term "stock" means a species, subspecies, geographical grouping, or other category of fish capable of management as a unit.

(19) The term "United States" when used in a geographical context, means all the States thereof.

Mrs. SULLIVAN (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

Mr. FRASER. Mr. Chairman, reserving the right to object, I might say if it is a matter of reading title by title, I have no objection to the title being considered as read.

The CHAIRMAN. Does the gentlewoman from Missouri wish to renew her request as to title I?

Mrs. SULLIVAN. Mr. Chairman, I ask unanimous consent that the bill be considered as read by title, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

Mr. ECKHARDT. Mr. Chairman, reserving the right to object, I merely want to understand what is meant here. Title I seems to start on page 16.

The CHAIRMAN. As I understand the request, it was as to the first three sections preceding title I.

Mr. ECKHARDT. That they would be read by section?

The CHAIRMAN. The gentlewoman is asking unanimous consent that they be considered as read.

Mr. ECKHARDT. That they be considered as read and then read by title?

The CHAIRMAN. The gentleman is correct.

Mr. ECKHARDT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

Mr. SIKES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am a supporter of the 200-mile territorial limit proposal.

I think everyone knows that our waters have been grossly violated by ships of foreign nationals. Other nations have harassed our crews and our fishing boats. We should know by now that there is to be no help from the Law of the Sea Conference. It is time for Congress to act, and I support the effort.

I do have a concern that I want to discuss, but before I express it, let me say that I have confidence, respect, and esteem for the gentlewoman from Missouri, the chairman of the committee, for the distinguished ranking member, for the chairman of the subcommittee, and for the gentleman from Massachusetts (Mr. STUDDS), the sponsor of this legislation, who has worked very hard to bring it to the floor.

Mr. Chairman, concern has been expressed to me from a number of sources about the possible effect of this bill to extend control of the seas to the 200-mile limit. Most of us who support the principle of a 200-mile limit simply want to extend U.S. control to that distance in order to further insure the protection of U.S. interests against the improper fishing practices by other nations in these waters, and to serve as a counter for the claim of 200 miles by other nations, some of which have abused their claim by their actions against U.S.-owned vessels and American crews.

It is the details of the bill that I confess I am worried about. I think they are broader than needed. They present the Federal Government, as I see it, with a vehicle with which to preempt State marine fishing authority. I know that is not the intent of this committee. I respect the members of this committee, and I know that is not what they intend.

But intent will be of little comfort if the Federal Government at some future date decides to fully implement the authority which may be contained in this bill.

Most of the concern appears to be addressed to a failure to define the term, "internal waters." Some amendments are being considered to clarify this situation.

There is also concern that the bill will be costly and that Federal licenses will be imposed against U.S. boats, even though they are licensed by their own respective States.

Florida, with a very long coastline and an extensive fishing industry, has a particular interest in this matter.

Mr. Chairman, I had thought to offer amendments to clarify these points, but I am hopeful that an understanding can be accomplished through a dialogue, and I wonder if at this time I may have the attention of the distinguished chairman of the committee or the chairman of the subcommittee.

Mr. LEGGETT. Mr. Chairman, if the gentleman will yield, I would be glad to respond to the gentleman's inquiry.

Mr. SIKES. Mr. Chairman, I am happy to yield to the distinguished chairman of the subcommittee.

Mr. LEGGETT. Mr. Chairman, I will state that I have reviewed extensively the views of the gentleman which he has communicated to me individually and which have been communicated to the committee by the State of Florida through Mr. Harmon Shields. I have attempted to respond to the inquiries.

Mr. SIKES. The gentleman mentioned is the head of the department of conservation in Florida.

Mr. LEGGETT. Yes. He raises some very important questions. I believe I responded to those in the RECORD in my statement and in my remarks in general debate.

Very simply stated, we do not intend to usurp State jurisdictions. We intend to give States every right and every opportunity to make their own plans and hopefully they will be in accord with any Federal plan that may be developed. We give the Governors of the States the opportunity to appoint members to this committee.

We are going to ask for local experts from the various States to participate on the Fishery Council to promulgate these plans.

It is only in that rare situation such as when we have two States which may have conflicting views, such as the State of Florida has right now with respect to control of the spiny lobster, where there is a conflict with some of the sister States, that we would attempt to go into that area.

If the gentleman will yield further, I would like to say that then, as in the spiny lobster bill, as soon as States enact legislation conforming or as soon as States conform, the Federal jurisdiction would immediately evaporate.

Again, Federal jurisdiction would not come into play automatically. It would only come in where we had this impasse. States would have an opportunity for notice and for hearing, and it is the intention of our committee to very precisely oversee the interrelationship between these councils and the administrator of NOAA and the Secretary of the Department of Commerce so that we do not get into the situation where the Federal Government is running State fishery activities. That is not our intention whatsoever.

Mr. SIKES. I have seen the remarks of the distinguished gentleman from California (Mr. LEGGETT), which appear in the RECORD, at an earlier point. I am reassured by his statement at that time, but I thought it well to have this colloquy so that the intent of the committee on the legislation is clearly understood.

If I might have a similar statement from the distinguished chairman of the committee, I would appreciate it very much.

I had asked for assurance that this legislation is not intended to give the Federal Government a right to preempt State marine authority, nor is it intended to usurp the rights of the States to control their own territorial waters.

Mrs. SULLIVAN. I agree with what my subcommittee chairman just said, because the subcommittee went into that matter thoroughly, and I think his explanation is clear.

Mr. LEGGETT. If the gentleman will yield further, I might state this, that this fishery program is not going to be effective unless we have the full support of the State fish and game departments of each of the various coastal States. There is no way by which we are going to be able to do the job otherwise, so we are going to have to work synergistically, and that is the intention of the committee.

Mr. SIKES. Mr. Chairman, I thank my distinguished friend, the gentleman from California (Mr. LEGGETT).

AMENDMENT OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. FENWICK: Page 7, line 16, after the word "the," insert the word "Interim"; page 10, line 20, after the word "establishing" insert the words "until an international agreement on the subject shall have been concluded."

Mrs. FENWICK. Mr. Chairman, I must confess that it is sad that the United States should ever be anywhere but in the forefront of those who uphold international law and security, and the rule of law in the world.

Nevertheless, I think that with certain amendments we can support this as an interim measure.

I draw the attention of the House to the first page of the bill, where the title says "To extend on an interim basis * * *"

The two amendments here, in other words, are merely reiterating the title of the bill itself, which sets the tone of the whole bill.

Mr. Chairman, I urge the adoption of these two changes and of this amendment.

Mr. LEGGETT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I know the gentlewoman from New Jersey (Mrs. FENWICK) supports the intent of the legislation.

She is concerned about international law.

Her interim amendment would attempt to preserve whatever international law we have and have this bill evaporate when the international law comes into effect as a result of the Law of the Sea.

Unfortunately, I cannot agree, on behalf of the committee, to the amendment because there is a considerable interest in the record which we are setting up in this bill. There are benefits for tuna fishermen which we are setting up in this bill, and we do not intend that these benefits be an interim measure.

If international law does come to fruition as a result of a law of the sea which everybody can agree upon, not conceding for a minute that what we are doing here in this legislation is not totally consistent with international law, we will need this interest record.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. We will need this infrastructure, we will need a bill just like this.

As far as the second amendment that the gentlewoman from New Jersey has brought up, we would have to resist that because it would be substituting in the sanctions provision where the Secretary of the Treasury is called upon to embargo the fish products of other nations that do not cooperate with the United States.

Mrs. FENWICK. Mr. Chairman, if the gentleman will yield further, that is not in this amendment.

Mr. LEGGETT. Mr. Chairman, I am sorry. I will withdraw that.

Mrs. FENWICK. Mr. Chairman, will might comment on his statement?

Mr. LEGGETT. Certainly, I yield to the gentleman yield further so that I the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, the

word "interim" is included in the bill in the original explanation of the bill. It just seems to me that if that is proper and fitting, if we are to mean it that we ought to put it where it would be clearly understood that this would be an interim measure and it would be in effect until an international agreement shall supersede it.

Mr. LEGGETT. Mr. Chairman, I know that the gentlewoman from New Jersey has not been connected with this legislation for the 3 years and the many, many hours that we have, but we have included the word "interim" a number of times in this bill in the proper places. If we put the request of the gentlewoman from New Jersey in the findings, then some smart lawyer might come along and try to condition the bill on the words of the gentlewoman from New Jersey which might cause some confusion, and for that reason we think it is more confusing than it is helpful.

Mr. FRASER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, would the Clerk kindly report the amendment again?

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mrs. FENWICK: Page 7, line 16, after the word "the," insert the word "Interim"; Page 10, line 20, after the word "establishing" insert the words "until an international agreement on the subject shall have been concluded."

Mr. FRASER. Mr. Chairman, I was trying to understand the colloquy between the gentlewoman from New Jersey (Mrs. FENWICK) and the gentleman from California (Mr. LEGGETT).

As I understand the amendments that the gentlewoman has offered, the first one simply describes the act as an interim act. The explanation of the gentlewoman from New Jersey is that in due course we hope there will be a law of the sea agreement.

The second amendment qualifies the extent of an exclusive fisheries conservation management zone by indicating that this would only prevail until a new regime was established under international agreement.

May I ask the gentlewoman from New Jersey, am I interpreting the amendments correctly?

Mrs. FENWICK. Most correctly.

Mr. FRASER. And the qualifications that are added by these amendments do not reach to the provisions of the bill, some of which may be, or some of which are intended to be, permanent.

I must say that I do not see any difficulty with the amendments offered by the gentlewoman from New Jersey.

My purpose in rising was to see if I could understand the thrust of them.

It seems to me that while it would not cure my objection to the bill, it would seem to be an improvement.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, I would state that the amendments offered by the gentlewoman from New Jersey (Mrs. FENWICK) are conditioned on an interim agreement on the subject shall have been concluded. It does not indicate that they shall have been ratified by the United States. We cover that situation under section 205, Multilateral Convention, where it states:

If the United States ratifies a multilateral convention resulting from any United Nations conference on the Law of the Sea which contains provisions with respect to the breath of the territorial sea and the fisheries or economic zone, the Secretary, in consultation with the Secretary of State, may promulgate . . . regulations.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey.

The amendment was rejected.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: On page 9, strike lines 15 through 20.

On page 12, strike lines 19 through 22.

Mr. FORSYTHE. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New Jersey.

Mr. FORSYTHE. I thank the gentleman for yielding.

I do not have a copy of that amendment. Do we have copies available?

Mr. ECKHARDT. I do not. It is the more striking, if I may state it again, of item 6 on page 9 and item 8 on page 12.

Mr. Chairman, would the Clerk kindly report the amendment again?

Mr. Chairman, I do not believe that this amendment, if passed, would hurt the bill, and it is not offered in that sense. I am not up here to remove from the bill its necessary declarations of policy, but I think that these two declarations are really not soundly based, and I believe that they would also be mischievous to the bill itself if they were included. I shall here attempt to state why.

Item 6 seems to indicate that there is in fact no regime of law governing the right to take fish on the high seas. Of course, it is qualified by saying "except for specific international agreements." But I believe there is in fact a regime of law that covers this subject. It may be that we may have the power to legislate contrary to that regime of law, but there is no point in our stating a matter which is not soundly based in fact in the purpose clause.

The situation is this. In 1958 there were four conventions in the United Nations which codified the prevailing laws of the sea. There was the Convention on the High Seas, which really became customary international law. It was signed by all of the seafaring nations, including the Soviet Union and the United States.

There was the Convention on the Territorial Sea and Contiguous Zone; the Convention on Fishing and Conservation of the Living Resources of the High Seas which, as has been said here, the Soviet Union did not sign but we signed; and the Convention on the Continental Shelf. These four conventions, and particularly the first one, clearly reiterated the rule that had existed since 1608 at least, expounded originally by Hugo Grotius, that on the high seas themselves every nation had equal resource or equal opportunity to fish without limitation.

Since that time a fishing zone of 12 miles enjoys the status of being established as customary law and therefore as international law, because all of the maritime nations and the fishing nations recognize at least that much territory. But with respect to the territory outside 12 miles and up to 200 miles and on out, there does exist in fact a regime of law that controls that situation at the present time. Here freedom of the seas and of fishing is the regime of law.

If it may arguably be said, and I am sure that it will be said by members of the committee, that a State may unilaterally extend its right, its area, its fishing zone beyond 12 miles, it will not add anything to put that self-serving statement in section 6. I think section 6 is at most erroneous and at least confusing.

But the main section that I think should be stricken is that section on page 12 which is paragraph (8), lines 19 through 22. Let me ask the Members to listen to this for a moment and tell me if the very language of the act does not state or imply that it is in violation of international law. It says:

not to authorize any impediment to, or interference with, lawful activities on the high seas, except with respect to the protection and conservation of fisheries resources as provided by this Act.

That states in effect that there is one interference with lawful activities on the high seas which is purported to be justified under this act and that is the protection and conservation of fisheries resources as provided in this act.

Why should the act itself gratuitiously say that we are interfering with lawful activities on the high seas? What does that add? It seems to me it only admits that the act is contrary to international law in that respect.

I would like to ask the members of the committee: What conceivable advantage will these two sections give the law? Do they create an atmosphere in which the courts are likely to uphold the law which is more favorable than that which would exist if they were left out? I would suggest they do not, because the last section even implies that international law is violated by this act.

Mr. LEGGETT. Mr. Chairman, I rise in opposition to the amendment.

The gentleman would seek to strike out paragraph No. 6 which really sets forth in a rather fishermen international kind of way that we have problems with respect to the Law of the Sea and that is the reason we have this legislation and a conference on the Law of the Sea. It points out there is no regime of law now because we have 40 different nations that have all claimed different jurisdictions which have caused considerable confusion.

Second, with respect to paragraph No. 8 where we talk about the only thing we are affecting on the high seas is fishing, it is to reaffirm that the 3-mile limit

still applies, but anything beyond 3 miles is the high seas, and that the only activity in that area that we intend to relate to is, not oil, not drilling, not submarine cables, not navigation, but the only thing we relate to is fishing and that is the only place for that language.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield on that point?

Mr. LEGGETT. I yield just for a question.

Mr. ECKHARDT. In this respect I am not trying to hurt the act but I think the gentleman's legislative history here does hurt the act when he says we are admitting that all beyond the 3 miles is the high seas. The only way we can justify this act is to say we have the right to enlarge the fishing zone beyond 12 miles.

Mr. LEGGETT. But that does not change the high seas.

Mr. ECKHARDT. If the gentleman is admitting that he does change the area that constitute the high seas he is running this law directly into the teeth of the convention.

Mr. LEGGETT. No, I am talking about the single text of the Geneva Convention, that we are just negotiating right now.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield.

Mr. BINGHAM. Mr. Chairman, let us get this clear. The gentleman is saying, as I understand it, that the high seas limit as far as the United States is concerned is everything beyond 3 miles?

Mr. LEGGETT. Has been, is now, and always will be.

Mr. BINGHAM. And this bill does not purport to change that except for fisheries?

Mr. LEGGETT. That is right.

Mr. BINGHAM. I thank the gentleman. I will come back to that.

I would say the gentleman's amendment points up a very interesting fact about this law, but all the paragraphs do is claim what the bill does, so I do not see how the paragraphs are in any way inconsistent with the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The amendment was rejected.

AMENDMENT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONTE: On page 15 of H.R. 200, lines 6 through 10, delete the following:

"(13) The term "highly migratory species" means any species of fish which spawn and migrate during their life cycle in waters of the high seas, in and outside the fisheries zone, including, but not limited to, tuna; but excluding halibut, sablefish, and herring."

And insert in lieu thereof, the following:

"(13) The term 'highly migratory species' means those species of tuna which spawn and migrate during their life cycles in waters of the high seas, in and outside the fisheries zone."

Mr. CONTE. Mr. Chairman, I rise to propose an amendment to H.R. 200, designed to protect the various species of gamefish, which are otherwise not included in this bill.

H.R. 200, as drafted, exempts highly migratory species from Federal Fisheries Management Authority. Unfortunately, highly migratory species, as defined in international agreements, contains a wide variety of salt-water gamefish that are in danger of extinction.

One of the reasons for excluding these particular species might be that existing international fisheries organizations and treaties provide sufficient authority for management of highly migratory species and that no conservation problem exists with respect to this classification of fish. I should like to refute these assertions from the onset. International fisheries organizations are not constituted with sufficient legal authority and enforcement capacity to actually manage the fisheries and, therefore, have no effective control. In addition, the greater the exploitation of the fish, the less effective the management mechanism becomes. A prime example of this management problem is the International Whaling Commission—IWC—which has proven to be less than effective.

I would now like to explain the rationale behind my amendment. Section 301 at page 37 of H.R. 200 states that authority under this "act does not extend to highly migratory species." The section continues to state that these species of fish "shall be managed pursuant to international fishery agreements established for such purpose."

I should like to note that, as of this date, no commission agreement or international treaty on billfish, the largest representative of saltwater gamefish, is now in force or even contemplated. We should all keep in mind that highly migratory species is defined by international treaty agreement and international law as including such varieties of gamefish, such as swordfish, sailfish, sharks, dolphins, marlin, and tuna.

Section 3(13) at page 15 of the bill excludes tuna from the jurisdiction of the act, by stating that the tuna shall be considered a "highly migratory species." That section further provides that "highly migratory species" is "not limited to" tuna. The section then goes on to set out halibut, sablefish, and herring as the only exclusions from the meaning of "highly migratory species" within the meaning of this act.

Thus, it is clear gamefish such as swordfish, marlin, sailfish, sharks, dolphins, and so forth, go without the protection of this act. Even if it was the committees' intent to put these gamefish within the protection of the act—it is of no legal consequence. Legislative intent is only considered when a piece of legislation displays a patent ambiguity.

Because the bill does not demonstrate such ambiguity and on its face one can decisively conclude that gamefish do not come under the jurisdiction of the act—the matter is now closed.

I would like to mention that my amendment will not alter the committee's decision to exclude all species of tuna from the jurisdiction of this bill. It is quite simply designed to protect all game fish, which are in such desperate need of conservation and management controls.

We should note that the level of catch remained fairly constant for a substantial period and has declined more than 70 percent since 1964. Further, we should note that the size of the fish suggests that we are suffering from a lack of sufficient medium and large size fish to spawn sufficient juveniles to maintain the young fisheries. Unless there are large numbers of medium and large size fish in areas now unknown to us—the exploitation of the remaining population will leave us with no spawning stock. The end result could be extinction of many valuable species of gamefish within the next decade. The catch rate—fish per 1,000 hooks—for the white marlin declined from 2.06 in 1962 to 0.80 in 1970. This is a 61-percent drop in only 8 years. The blue marlin catch rate fell from 3.81 in 1966 to 0.29 in 1970. This represents a 92-percent decline.

One of the foremost fisheries scientists in the world is Dr. Shojo Ueyanagi—Show-joe Way-na-gee. He has conclusively determined that, with the declining catch rate, there is a simultaneous decline in the size of the fish taken. The conclusion is, unfortunately, a drastic decrease in the relative abundance of the fish. It is clear that stock is being adversely affected by overfishing. Because tuna are excluded from this bill, the United States would still retain a substantial degree of flexibility in any treaty negotiations.

Inclusion of bill fish and other game fish, which have little or no interest to commercial fishermen, would have no impact on treaty negotiations. It is our duty to safeguard the future of these splendid fish before they are rendered to nothing more than museum pieces.

I would like to advise that the language of my amendment is very similar to the corresponding provision in S. 961, which is the Senate version of H.R. 200. The Senate Commerce Committee recognized the need to include game fish in this bill and changed the language in the full committee markup to include game fish. I understand a substitute for S. 961 containing this new language will be filed by the Senate Commerce Committee this afternoon.

Every fisherman has a dream similar to Hemingway's "Old Man and the Sea" who one day caught the prized marlin. Let me riterate the fact that no commission agreement or international treaty on billfish or gamefish is now in force, or even contemplated. If we continue to allow the useless exploitation and destruction of these beautiful inhabitants of the sea, who have little or no commercial value—we must accept the responsibility for their eventual extinction.

Mr. STRATTON. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to rule XXIII, clause 2, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

PARLIAMENTARY INQUIRY

Mr. STRATTON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. STRATTON. Mr. Chairman, the time has expired, has it not, so that a regular quorum is required?

The CHAIRMAN. It is within the discretion of the chair to determine whether to wait longer.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The gentleman from Massachusetts (Mr. CONTE) has the floor.

Mr. DU PONT. Mr. Chairman, will the gentleman yield?

Mr. CONTE. Yes, I yield to the gentleman from Delaware.

Mr. DU PONT. Mr. Chairman, I rise in support of H.R. 200 and do so having once argued in opposition to this legislation. When legislation similar to H.R. 200 was first proposed, I believed that State Department objections to unilateral U.S. action were valid. At that time, the Law of the Sea Conference was in its early stages and international consensus on the 200-mile economic zone was lacking. Since the Geneva session, two factors have coincided which convinced me that the State Department objections were no longer valid. First, it has become apparent that our coastal fisheries resources are precipitously declining, because of foreign overfishing. It is clear that overfishing is causing irreparable injury to fish stocks. Second, the Geneva session concluded with widespread international acceptance of the 200-mile economic zone. The combination of these two factors leads me today to urge prompt action by the House on H.R. 200. There is simply no time left to delay.

In support of H.R. 200, I would like to disagree with the series of arguments that have been propounded by the State Department. In objecting to the legislation, they claim that other countries will be prompted by the U.S. action on a 200-mile economic zone to declare off their waters a 200-mile territorial zone. My first response to this charge is that there is no evidence that other countries are unable to discern the difference between declaring a territorial sea and an economic zone. Quite to the contrary, I would assume that other countries like the United States would be inclined to declare a zone which is consistent with the prevailing international consensus—that is the 200-mile economic zone.

I would also add as a practical matter that as long as the 200-mile economic zone has gained international acceptance, it would be foolish for us to allow our resources to be depleted further while we wait for the Law of the Sea Conference to finish work on other issues such as deep sea mineral rights. I have every reason to believe that foreign fleets would continue to increase their activities off our coastline and to take as much fish out as they can before the 200-mile economic zone becomes effective through the Law of the Sea Convention. It seems we have everything to lose and nothing to gain by delaying any further.

One of the underlying assumptions behind the Department of State opposing this bill is that the Law of the Sea Conference will soon conclude a treaty that will be ratified by the United States. I disagree on two grounds. First, there is evidence that at least two more sessions are needed to complete work on the conference. In addition, one of the most volatile issues still remains to be resolved—the deep sea minerals issue. From what I have seen of negotiating texts, we seem to be a long way away from resolving this question. Second, even if a convention is completed, there is growing evidence that the deep sea mineral provisions may be so unacceptable to U.S. interests that the convention might not be ratified at all by the United States. Given these obstacles, it seems the State Department may be willing to bargain away our fishing resources while the Law of the Sea Conference founders.

There is no question about the need to take drastic steps to restore our depleted fish stocks and as long as the 200-mile economic zone has gained general international acceptance, I can see no valid reason for delaying remedial action any further. I urge all my colleagues to vote favorably for H.R. 200.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, we consulted in the interim.

This side is satisfied with the amendment. The gentleman's definition will probably enhance the bill. This side is agreeable to accepting the amendment offered by the gentleman from Massachusetts (Mr. CONTE).

Mr. FORSYTHE. Mr. Chairman, will the gentleman yield?

Mr. CONTE. Yes, I yield to the gentleman from New Jersey.

Mr. FORSYTHE. Mr. Chairman, we are pleased on this side also to agree to accept the amendment offered by the gentleman from Massachusetts (Mr. CONTE).

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. CONTE. Yes, I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I rise in strong support of the amendment offered by the distinguished gentleman from Massachusetts (Mr. CONTE). While the committee should be commended for drafting this excellent piece of legislation, the Marine Fisheries Conservation Act as written does neglect to protect one important segment of our native fishery resources, the billfish—marlins, swordfish, and sailfish.

The billfish are the most prized catch of sport fishermen. In my native south Jersey, visitors and locals alike engage in recreational fishing. Tourism is the second largest industry in New Jersey, and sport fishing attracts a number of these tourists. Nationally some 34 million sport fishermen cast into our oceans. Sport fishing has a tremendous economic impact, for these anglers support a $2.6 billion industry.

Present international fisheries organizations do not provide the necessary protection for these magnificent animals. The current international agreements are toothless and lack effective enforcement procedures. Without inclusion under H.R. 200 these fish are threatened by further depletion, to the detriment of the tourist industry in New Jersey and of sport fishermen everywhere. We cannot abrogate our responsibilities to expand protection under this act to include the billfish, and I wholeheartedly urge my colleagues to join me in voting for this crucial amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. CONTE).

The amendment was agreed to.

PREFERENTIAL MOTION OFFERED BY MR. STRATTON

Mr. STRATTON. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. STRATTON moves that the committee do now rise and report the bill (H.R. 200) back to the House with the recommendation that the enacting clause be stricken.

Mr. STRATTON. Mr. Chairman, I have not been here for all of this debate, but I have been here for a substantial portion of it.

I am disturbed that none of the national security implications of this legislation have so far been addressed in this debate.

I heard one Member complain because the bill had not been referred sequentially to the Committee on International Relations. I think it should have been referred sequentially to the Committee on Armed Services as well, because what we are dealing with here today is something that immediately, perhaps, concerns our fishing industry, but over the longer run could also concern our national defense very seriously.

It is my understanding that the participants in the Law of the Sea Conference are fairly close to agreement on a 200-mile resources limit, but it is my information that if we proceed unilaterally to enforce a 200-mile limit ourselves, we could break up that conference, and that would be very serious, for this reason: There are not one but two important limits for us to be concerned about.

First is the resources limit and that, roughly, is the thing we are talking about in this bill, the area to which you can go out to fish, as well as the mineral rights under the sea and things of that kind.

There seems to be a broad agreement that this 200-mile limit is a good one, although the gentleman from San Diego (Mr. VAN DEERLIN), I think, is opposed because that would complicate the problem of his tuna fishermen down off the coast of Peru and Ecuador. But the limit that everybody has lost sight of is the navigation limit, the territorial limit. Those are the limits that determine what happens to our Navy and to the Navies of the world and also to our important merchant shipping, including our oil imports from the Persian Gulf.

What is likely to happen is that if by

this ill-conceived, unilateral action we destroy the possibility of an agreement in the Law of the Sea Conference, then we are not going to get what we want most of all, a 200-mile resources limit at the same time that we get a 12-mile or even a 3-mile international territorial limit. And it is very likely that what we are doing here today could end up by disrupting the whole conference and with many nations around the world declaring a 200-mile territorial limit on their own.

Let me point out to the Members on this chart just what monumental damage this would do to our defenses as well as to our economy.

What would it do to our Polaris submarine fleet and to our commercial fleet? Well, it would close every major strait in the world. It would close the Straits of Gibralter and so our nuclear submarines at Rota would be unable to get into the Mediterranean and probably the 6th Fleet would be unable to get into the Mediterranean as well.

It would close off all of the Red Sea and the Gulf of Suez; and the important Port of Eilat in Israel, which you may recall was the immediate cause of the 1967 war, would be cut off completely.

It would cut off the Persian Gulf where all of our oil comes from, as well as the oil for much of the rest of the world.

It would cut off the important Straits of Malacca which we have to use to get into the Indian Ocean with our nuclear submarines and our conventional ships. We would have to go south of Australia instead.

Here is another chart which will illustrate what I am talking about even more dramatically.

POINT OF ORDER

Mr. BAUMAN. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BAUMAN. Mr. Chairman, does not the gentleman from New York have to discuss the contents of the bill rather than the contents of his imagination under the pending privileged motion?

The CHAIRMAN (Mr. SMITH of Iowa). The Chair will state that the gentleman from New York must discuss the pending bill.

Mr. STRATTON. Mr. Chairman, the Member is addressing the pending bill and what the passage of this bill will do to our naval power. I think it is important that the Members of the Committee of the Whole be aware of what is before this body. That is why I propose to strike the enacting clause, as my motion provides.

Mr. Chairman, all these pink spaces represent the seas that would be denied to us if a 200-mile territorial limit were adopted throughout the world. Thirty-six percent of the ocean will be denied to our submarines and surface ships. Our nuclear, invulnerable deterrent, the Polaris, the Poseidon, and the Trident nuclear submarines would not be able to sail in the pink areas, and that is no joke. That is why the Joint Chiefs of Staff and the Department of Defense oppose this bill in its present form. This is one of the reasons that the State Department opposes it.

If we wanted to get from the Pacific into the Indian Ocean, for example, we would have to go all the way around South of Australia.

Let us not start down that road and place our naval power and also our air power in jeopardy because this limit would of course also apply our rights of overflight. It would seriously cripple our air power.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STUDDS. Mr. Chairman, I rise in opposition to the privileged motion and to the contention of the gentleman from New York that Chicken Little was right.

If the Members would look at the awesome areas of pink on the map which has been presented to us, one would think that the entire Arctic Ocean was gone forever.

The simple response to the gentleman from New York is that the legislation does not extend or affect in any way the territorial sea of this or any other country, and we affect in no way whatsoever the rights of this or any other nation beyond the territorial limits which are now and will remain 3 miles with or without this legislation. In no way do we affect rights of passage in narrow straits or any other freedom of the high seas, other than the jurisdiction over fisheries. The reason the Committee on Armed Services did not receive jurisdiction over this bill is, No. 1, because they have no such jurisdiction under the Rules of the House; and, No. 2, because they did not request it. But it might come as some enlightenment to the Members to know that in the other body where the rules are somewhat different and somewhat looser, the Committee on Armed Services of the U.S. Senate did receive sequential jurisdiction last winter, and, wonder of wonders, it favorably reported this bill by a vote of 9 to 8, as I recall, a favorable report from the Senate Committee on Armed Services.

Testifying at that time was the Chairman of the Joint Chiefs of Staff, General Brown. Although the Members will not find this testimony in the transcript of the hearing because the Department of Defense exercised their privilege of excising it subsequent to clearing it, the Chairman of the Joint Chiefs was asked by Senator MCINTYRE:

General, if every nation in the world did precisely what the United States proposed to do in this legislation, would it in any way affect the security of the United States?

The answer was "No."

Then the General was asked:

Has any nation, to your knowledge, threatened to take any action prejudicial to the national interest and security of the United States if we were to pass this law?

And the Chairman of our Joint Chiefs of Staff said, "No."

Mr. Chairman, I urge defeat of the motion.

The CHAIRMAN. The question is on the motion offered by the gentleman from New York (Mr. STRATTON).

The motion was rejected.

The CHAIRMAN. The first three sections of the bill are open for amendment. Are there further amendments to those three sections?

Mr. BENNETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened to every word of this debate, and the only reason I have not talked before now is because of the fact that I was not allowed any time on either side. I do not blame anybody, because the time was already used up. But I wanted to talk, and I wanted to talk along the line that my very eloquent predecessor talked here, because I am chairman of the Seapower Subcommittee and I am on this Advisory Board of the Law of the Sea.

I have never taken any trips in my entire career. I never have been anywhere, but I do go down to the Department of State when they have their backup meetings there working on the law of the sea. I spend days down there, and they are pretty painful days, because the discussions are pretty rough and pretty tough as to how they are going to get a proper type of law of the sea in the end. This is not any striped-pants proposition; it is hard work and very unpleasant. I have to stay down there all day long and listen and try to participate in how we are going to try to work out these matters. There is no champagne; in fact, there is not even a cookie given to us during the whole day. One has to go out and buy it if one wants to get it. I take off some time on my vacations, if I want to do it.

I come from sea towns. The first third of my life I spent in Tampa, Fla. I am familiar with fishermen and their problems. The last two-thirds of my life I spent in Jacksonville, Fla. I have represented a lot of sea towns. Today I represent two, Fernandina and Mayport. These cities are hundreds of years old. They have always been sea towns. One of them is about 400 years old—Mayport. So I am rather familiar with the seaman, the man who goes to sea to get fish.

The fishermen in my area primarily fish for shrimp, and they do not like this bill. Why do they not like the bill? They do not like the bill because their livelihood will be imperiled by this bill, because it will encourage other countries to do the same sort of thing that we are doing here and will cut off the shrimp, just as Mexico did the other day. And the other places where they get shrimp will be cut off. The bulk of the shrimp and fishing industry of the United States of America has nothing to gain by this bill, nothing at all to gain dollarwise.

Our largest fish business in the United States is in shrimp, tuna, salmon, and other fish of that type, so the bulk of it is not going to be helped by this bill at all.

I want to say one other thing. I have seen Congress now in the last week or so do some rather strange things. There was a President of the United States whose name was Teddy Roosevelt. He said, "Speak softly and carry a big stick." We are carrying a little, tiny, "itty-bitty" stick, and we are speaking awfully loud.

If the present situation is that we cannot do anything about enforcement in 12

miles, what do the Members think is going to be done about 200 miles? Do they want the national defense of our country to put hundreds of millions of dollars in policing that area? If we cannot police 12 miles, how are we going to police 200 miles?

Passing this law is just going to be drawing the line and asking somebody to step over it. That is what it is. Do we want to be confronted with that?

The gentleman from New York (Mr. STRATTON) has already pointed out why the Defense Department is opposed to this. General Brown may have said, and it is quite true, and we might well have said it, that if all nations of the world would pass this bill there would not be any great national defense matter. But they would not pass this bill. They did not when President Truman extended the line. What did they do? They extended the lines of their sovereignty over the sea and used President Truman's extension over fishing to say: "Therefore we are entitled to do the whole works." They would use this to keep the submarines out. If the submarines came into their waters our submarines would have to surface.

Incidentally we would not even be able to fly airplanes over that area because absolutely the same law obtains.

It would be a great folly to enact this law. It would be a folly because we pick out only a small portion of the fisheries to help and we would hurt other portions of the fishing industry, the larger part. Those hurt are as entitled to be considered as anybody else.

The retaliation will hurt. It has already hurt. The retaliation has always taken place.

We would be imperiling our Polaris and Poseidon and Trident and other nuclear submarines, because they would not be able to hide in the sea.

We have to admit that our nuclear deterrent force is the most magnificent achievement of our defense, because we have not had a nuclear war; and we do not have a nuclear war because it is known by the Russians that if they strike us with nuclear weapons we can obliterate them after they have obliterated us.

That is a horrible thought, but that is what our deterrent is. That is what a nuclear deterrent is. That is why we have the Polaris and Poseidon and Trident. We ought to be glad we have them as our nuclear defense to deter the starting of nuclear war. The passage of this bill would encourage other nations to unilaterally extend their sovereignty into areas of the ocean where these submarines can now hide.

The CHAIRMAN. The time of the gentleman from Florida has expired.

(By unanimous consent, Mr. BENNETT was allowed to proceed for 3 additional minutes.)

Mr. BENNETT. Mr. Chairman, I just want to amplify a little bit on what I said a moment ago about carrying the big stick and speaking softly. We cut $9 billion out of the national defense the other day, after already cutting out billions of dollars in authorizations and then what else did we do the other day?

We said we are going to do something big in the Middle East and take on that big responsibility and place a trigger of 200 technicians there. I ask the Members to remember that may be another war, that may be Armageddon, that may destroy all mankind. We took that on very easily.

But at the same time, when our Navy says absolutely they have to start 35 new ships this year, we gave them only 21 ships. Our Navy is being depleted, our national defense is being destroyed, and we are taking on more responsibilities all the time. We are not credible as a nation today. The world knows we are not credible. Only we do not know it.

I want to say another thing. The heart and the good part of this bill is conservation, but the good part of this bill is already being accomplished. In a meeting on September 28 in Montreal, Russia agreed it would go along with these conservation ideas but they said that they would not agree to the 200-mile proposition we are considering here but that they will work with us on conservation.

Suppose we enact this and the Russian trawlers come off the coast of the United States. Are we going to send our Navy there, our Navy which does not have enough ships to take care of what we already must take care of?

I want to lay this on the conscience of the Members and ask them to defeat this bill because I think it promises something we cannot achieve; and it does something that is dangerous to the fishermen in my district and to most of the fishermen we have in this country; and it is a bluff by us that we are in no position to sustain.

The CHAIRMAN. There being no further amendments to the first three sections, the Clerk will read title I.

The Clerk read as follows:

TITLE I—ESTABLISHMENT OF UNITED STATES FISHERIES CONSERVATION AND MANAGEMENT ZONE EXTENDING TO THE 200-MILE LIMIT

SEC. 101. ESTABLISHMENT OF FISHERIES CONSERVATION AND MANAGEMENT ZONE.

There is hereby established a fisheries conservation and management zone (hereinafter referred to in this title as the "zone") contiguous to the territorial sea of the United States. The seaward boundary of the zone shall be a line drawn so that each point on the line is 200 nautical miles from the baseline from which the breadth of the territorial sea is measured.

SEC. 102. EXCLUSIVE RIGHTS OF UNITED STATES WITHIN ZONE.

The United States will exercise the same exclusive rights in respect to fisheries in the zone as it has in its territorial sea. Fishing by foreign states within the zone will be permitted as may be recognized on or after July 1, 1976, by the United States pursuant to the provisions of this Act.

SEC. 103. ADJUSTMENT OF BOUNDARY.

Whenever the President determines that a portion of the zone conflicts with the territorial waters or fisheries zone of another country, he may establish a seaward boundary for such portion of the zone in substitution for the seaward boundary described in section 101.

SEC. 104. STATE JURISDICTION.

Nothing in this Act shall be construed—

(1) as extending the jurisdiction of any State to any natural resource beneath and in the waters within the zone;

(2) as diminishing the jurisdiction of any State over any natural resource beneath and in its internal waters; or

(3) except as may be provided pursuant to section 309, as diminishing the jurisdiction of any State to any natural resource beneath and in the waters of the territorial sea of the United States.

SEC. 105. REPEALER.

The Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091–1094), is repealed.

SEC. 106. EFFECTIVE DATE.

This title shall take effect July 1, 1976.

Mrs. SULLIVAN (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

MOTION OFFERED BY MRS. SULLIVAN

Mrs. SULLIVAN. Mr. Chairman, I move that all debate on title I and all amendments thereto close in 20 minutes.

The CHAIRMAN. The question is on the motion offered by the gentlewoman from Missouri.

The motion was agreed to.

The CHAIRMAN. Members standing at the time the motion was made will be recognized for three-fourths of a minute each.

The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: On page 17, line 4, strike the period and add the following: "or as may be the exercise of a right protected by international law or by any treaty to which the United States is a party."

Mr. ECKHARDT. Mr. Chairman, add to the provision now in the bill, what this does is provide that "Fishing by foreign states within the zone will be permitted as may be recognized on or after July 1, 1976, by the United States pursuant to the provisions of this act." That is what the act now says the provision that the same may be done as an exercise of a right protected by international law or by any treaty to which the United States is a party.

The author of the bill says this bill does not violate any treaty and does not violate international law. All I do is make sure that the bill will not be used for such violation.

Mr. FORSYTHE. Mr. Chairman, I rise in opposition to this amendment. I think it is absolutely redundant. It is not needed. It does not add anything to the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The amendment was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. ANDERSON).

Mr. VAN DEERLIN. Mr. Chairman, I ask unanimous consent that my fat 40 seconds be yielded to the gentleman from California (Mr. ANDERSON).

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. TALCOTT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. ANDERSON of California. Mr. Chairman, I would like to say something about conservation and fish stocks. A moment ago my colleague from California, expressed his concern over the status of California fish stocks.

Although I do not doubt the gentleman's good intention in attempting to protect his people's interests, I do question his source of information regarding the take of fish off the California coast.

We should indeed be concerned if our shores are being "raped" of this valuable food resource. But in California, they are not. In fact, the overall catch of California coastal fishermen has dramatically increased over the past 10 years. This increase reflects the six major stocks of fish off California's shores, according to the California Department of Fish and Game. And, this increase does not include tuna landings, the majority of which is caught off foreign shores.

The following chart indicates the California commercial landings of fish, other than tuna, according to the California Department of Fish and Game:

CALIFORNIA COMMERCIAL LANDINGS—OTHER THAN TUNA AND TUNA RELATED FISH

[In pounds]

Year	Rockfish increase	Sablefish increase	Salmon same	Sole (all) increase	Crab (all)	Squid increase	Total (including other minor species)
1965	9,392,424	2,863,550	9,737,775	20,158,546	5,132,592	18,619,893	95,289,198
1966	10,063,592	3,215,939	9,446,995	19,087,738	12,707,233	19,025,879	99,438,873
1967	9,798,951	3,798,493	7,041,729	17,909,130	12,040,874	19,601,922	90,843,530
1968	9,444,396	3,219,455	6,951,931	19,465,137	16,367,238	24,932,173	103,257,521
1969	9,227,451	4,156,846	6,150,906	22,070,122	8,443,072	20,779,382	92,071,964
1970	10,686,844	4,428,077	6,611,522	23,813,431	15,954,200	24,950,865	106,748,876
1971	11,168,746	4,424,463	8,116,878	22,692,905	10,204,997	31,517,408	104,946,351
1972	16,421,252	8,395,714	6,423,289	30,739,726	2,406,536	20,159,312	101,780,105
1973	22,052,455	8,550,071	9,668,984	30,421,922	2,074,336	12,061,632	107,600,759
1974	21,447,169	12,007,479	8,743,564	27,983,345	1,686,105	28,904,680	130,006,619

Note: Tuna is excluded since 96 percent of it is caught in distant waters.

Source: California Department of Fish & Game Annual Catch Bulletins, table 15.

The following chart shows the U.S. landing of fish and shellfish from 1960 to 1974:

EXHIBIT 1

U.S. LANDINGS OF FISH AND SHELLFISH—1960 TO 1974—CORRECTED TO INCLUDE PUERTO RICO TUNA LANDINGS BY U.S. VESSELS

Year	Million pounds	Million dollars
1960	4,962.9	[1] 356.5
1961	5,218.1	[1] 365.8
1962	5,382.7	[1] 399.6
1963	4,884.0	380.7
1964	4,589.4	394.0
1965	4,831.6	452.1
1966	4,430.7	481.4
1967	4,152.9	450.0
1968	4,267.7	512.6
1969	4,433.3	541.9
1970	5,001.9	626.7
1971	5,146.8	675.7
1972	4,894.1	765.5
1973	4,926.3	970.8
1974	5,118.8	957.4

[1] Puerto Rico tuna values calculated using average dollars per pound from U.S. landings each year for Yellowfin and Skipjack.

Source: Fisheries of the United States, Annuals of N.M.F.S. and Fishery Statistics of the U.S., 1971; Statistical Digest No. 65 NMFS

Mr. Chairman, In conclusion, I suggest that what we have here is a species problem, not a national problem. With so much at stake, the law of the sea negotiations, the survival of the tuna industry, and the exhorbitant cost of this bill, I believe we should act to protect those stocks of fish that are in trouble, by legal means through bilateral or multilateral negotiation, rather than unilateral action.

AMENDMENT OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. FENWICK: Page 16, strike line 21 and substitute in lieu thereof the following: "measured, subject to supercession by an international agreement.";

Line 23, after the word "Zone" insert the following: "until such time as an international agreement shall have been ratified."

Mrs. FENWICK. Mr. Chairman, this amendment is again in the spirit of the first amendment I offered, and which failed. This is an effort to reiterate that this is an interim agreement, and that we are ready to stand under the law and such treaties as may be agreed to and ratified.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, I will use my 40 seconds in objecting to the gentlewoman's amendment.

The community of nations have agreed to a 200-mile limit. It is part of this bill, and there is going to be a 200-mile limit after the new law of the sea, if it is ever enacted, so that to make the 200-mile limit an interim affair would not be reasonable.

With respect to the statement of my colleague from California, if he will look on page 35 of the committee report, he will find that we used to have 97 percent of American fish caught by Americans, but now they only catch 50 percent.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. GUDE).

Mr. GUDE. Mr. Chairman, I rise in support of the gentlewoman's amendment. This legislation has bad features, and this will help to mitigate them to some extent.

I think one important thing that the House should also remember is that, indeed, this legislation is going to cause great difficulty in the transport of oil around the world. We will find that nations will be settling up 200-mile pollution zones and controlling oil transport through their waters by requiring fees. We are going to find that we will have to pay a toll to bring oil to the United States.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK).

The amendment was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Chairman, I am sorry that the 20-minute time limitation was put on and that Members only have 40 seconds each. That is what concerns me about agreeing to let the whole bill be read, and now it appears that it is true in letting it be read by title.

Some important amendments are going to be offered but I, for one, am not going to be part of debate which is limited to 40 seconds. So, I hope that the managers of the bill will remember this as the debate goes on. There obviously is a problem in having the bill considered as late in the day as this. I asked for time in general debate and got none.

The CHAIRMAN. The Chair recognizes the gentleman from Rhode Island (Mr. BEARD).

Mr. BEARD of Rhode Island. Mr. Chairman, I support 100 percent the legislation that is before us today. In Rhode Island we have suffered terribly with tremendous unemployment at the rate of 16 percent. A very great part of our industry which has been swept clean like a vacuum cleaner by foreign ships has been our fishing industry. They have destroyed part of our fishing industry. We have to do something.

I hope the Members will support H.R. 200 and the 200-mile limit.

(By unanimous consent, Mr. DOWNING of Virginia yielded his time to Mr. DOWNEY of New York.)

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY of New York, Mr. Chairman, I rise in strong support of H.R. 200. For over 300 years one of the basic tenets of freedom of the seas has been that all fishermen have open access to fishing stocks in international waters. Until recently, there has been little or no reason for this Nation to restrict the entry of foreign fishing vessels into its

coastal waters. However, as a result of the technological sophistication of modern fleets, coupled with their unwillingness to follow basic conservation measures, the time has come when we, as a Nation, must reassess our basic policies.

The need for this basic reassessment is absolutely clear: Foreign fishing fleets off this Nation's coasts are threatening to cause the extinction of many of our indigenous species of fish by their unlawful and careless fishing activities.

Our commercial and recreational fishing industries are far too important for the Nation to allow these actions to continue. On Long Island alone these industries have a reported worth of $16 million, and the true value might be far greater. Moreover, the industry is the second largest single employer on Long Island.

These domestic fishing activities are absolutely dependent upon the continued stocks of salt water fish off our island's coast. It is well known that Russian trawlers have been threatening our stocks of whiting, ling, herring, and squid, all of which are fished commercially by Long Island's fishing fleet.

Further, New England and the Middle Atlantic fishing regions are now faced with such a drastic decrease in the population of such species as the yellow tail flounder, that we may be forced to reduce the catches of these fish in order to insure their continued existence. Similarly, the press reports have indicated that our coastal fishermen are having to venture farther and farther from our shores in order to find the species they once fished nearby in abundance.

Mr. Chairman, we have before us today a bill that will extend our exclusive fishery zone from 12 miles to 200 miles effective July 1, 1976, and will require foreign vessels fishing within this zone to acquire a permit from the Secretary of State. Given the fact that foreign fishing fleets are larger, better equipped, and more able to travel longer distances than our own coastal fishermen, the need for this legislation is clear.

We have already delayed too long. Forty nations have already declared exclusive fisheries zones beyond 12 miles and the three Law of the Sea Conferences held in the past 17 years have failed to provide any meaningful resolution of the question of ocean jurisdiction. In the meantime, these highly subsidized foreign fleets are moving in on this country's resources and draining them dry. The devastation of fish life off our shores cannot continue.

We, as a Nation, must take affirmative action to require Russia, Japan, and other nations to observe the proper conservation measures of international law in their fishing activities, and we must place a limit on their trawling activities near our coasts. Through the strong leadership of this country we may be able to stop this destruction in time.

The time to act is now. I urge my colleagues to consider these points carefully and press for speedy and affirmative action on this bill before us.

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut (Mr. DODD).

Mr. DODD. Mr. Chairman, as the Congressman from the seacoast district of Connecticut, I rise to urge my colleagues to vote for this sorely needed measure to establish a 200-mile fishing limit for the United States.

The fishermen from my district, from throughout New England, and from every coastal State in this Nation, need, want, and deserve the protection that this long-overdue legislation can provide.

All the people of this country and of the rest of the world, people who rely on our fish resources for much of the protein they eat, need this 200-mile limit, so that already depleted fish stocks can be replenished and so that we can prevent further depletion of these vital food resources.

Mr. Chairman, the Marine fisheries conservation act of 1975 is a measure designed to promote the orderly management and conservation of these important fish resources, which have been facing increasingly severe depletion for many years through overfishing by foreign fleets.

It is an act designed to give our independent American fishermen the assistance they need to compete on an equal footing with the huge, government subsidized fishing fleets from other countries.

It is a piece of legislation designed to permit our Government to utilize legal means to expand its protection of our fishermen from further repetition of careless destruction of gear and lobster pots by these same foreign fishing vessels.

But what this act is not, Mr. Chairman, and I emphasize the word "not," is a measure to close our coastal waters to foreign vessels or unfairly restrict them from catching the resources many of them have historically been harvesting.

It is not an attempt to sabotage the International Law of the Sea Conference.

Nor will passage of this measure have that effect, despite vague, dire warning from our State Department.

Let me tell you why I support this measure for the 200-mile limit, and why I ask all of you to do so. I will list the reasons:

In the first 3 months of 1975, the National Marine Fisheries Service estimated that the Soviet fishing fleet caught between 30,000 and 70,000 metric tons of mackerel above its internationally agreed to annual quota.

I was just informed today by an expert with the National Marine Fisheries Service that because of past overfishing off our Atlantic coasts, herring have been so hard to catch, the stocks have been so depleted, that no country is expected to make its 1975 quota for that species.

This same expert told me that the recent meeting of the International Commission of Northwest Atlantic Fisheries—ICNAF—set a 1976 total catch quota for all member countries that is a full 100,000 metric tons above what our Fisheries Service biologists regard as the best limit to allow for proper replenishment of our fish stocks.

The commercial lobstermen of my own State reported just 3 months ago that despite an ever-increasing demand, the catch this season along the Connecticut shoreline has greatly diminished from past years.

These lobstermen blame overfishing by foreign fleets as a major cause of this scarcity.

Earlier this year, 12 trawlers from our neighboring State of Rhode Island lost an estimated $160,000 in lobster gear when a large fleet of vessels, believed to be Russian, steamed through their harvesting area and destroyed the equipment.

This list could go on and on, Mr. Chairman, but I think these examples convincingly prove my point—that something must be done as soon as possible to begin protecting our depleted fisheries from unmanaged harvesting, and to protect our American fishermen from unfair, foreign competition and gear destruction.

By providing for regional fisheries management plans, which will limit the number of foreign vessels fishing off our shores and set proper catch quotas to insure the best current and future yields from our limited fish stocks, this bill will provide this needed conservation effort.

By requiring permits for each foreign vessel wishing to fish off our shores, this bill will allow our enforcement agencies to keep better track of who is and is not supposed to be casting their nets in our waters. This will lead to tighter enforcement of our fish conservation laws.

By giving our enforcement agencies the legal authority to apprehend offending vessels and take them to courts, where proper penalties will be set, this bill will provide stronger incentives for foreign fishermen to follow established conservation plans.

Let me give you an example, Mr. Chairman, of the advantage this specific aspect of H.R. 200 has over the major fisheries conservation agreement now in force—ICNAF.

Under ICNAF, each member country is expected to enforce violations of the agreement by levying penalties on those fishermen of its nationality apprehended by other member nations. All an apprehending nation can do is cite a violator, allow him to go free and continue fishing, and pursue the setting of penalties through slow diplomatic processes.

In essence, we have a situation where we are asking violating nations to police themselves, Mr. Chairman, which I think we all can agree is a somewhat optimistic proposition.

My expert at the Marine Fisheries Service informs me that while some countries, including the Soviet Union, are improving their conduct on the seas, somehow there still are situations where this country cannot be sure offending fishermen actually are penalized by their governments under the ICNAF provisions.

This law assures that justice will be fairly and swiftly meted out by our own Federal courts to violators of our fisheries resources. It will be a message to all fishermen that they will be held more accountable for their actions and that they should be more careful to respect our established conservation measures.

Mr. Chairman, I would like to address myself to the three major arguments forwarded against this bill:

That the problem it deals with is only a regional one confined to those of us in the New England States;

That this law is unnecessary now because an international treaty providing for a 200-mile limit will be forthcoming from the United Nations Law of the Sea Conferences;

That unilateral action now by the United States to set a 200-mile limit would set off similar actions by other countries to carve up our ocean resources, and instead of sharing these resources, nations would fight among themselves for them.

First, this is not just a New England problem, Mr. Chairman, and I know this from first-hand experience.

Recenty, I traveled to California and Alaska as a member of the House Ad Hoc Select Committee on the Outer Continental Shelf, which held 2 weeks of hearings in those areas.

I also took the opportunity to speak at length with fishermen from these States, and they are suffering just as badly as we are on the East Coast and in New England from the depletion of stocks from overfishing by foreign fleets, mainly from Japan and Russia.

These conversations convinced me more than ever of the great necessity this country has for a 200-mile fishing limit.

This problem is a national problem, not a regional problem, and if we are going to protect the rich food resources of such waters as the Bering Sea, Gulf of Alaska, and Georges Bank, and protect our fishermen also, then we must pass this legislation immediately.

Second, we cannot rely on the Law of the Sea Conference to act quickly on this issue. It has failed to do so thus far, and it is unclear at best that there will be a satisfactory result from the New York conference in March. There are some predictions we will have to wait until the next session after that one.

We cannot and must not wait, Mr. Chairman, because our fish resources already are dangerously depleted, and our fishermen need the protection now. Further delay will only increase the problem.

I might add, also, that contrary to what opponents of H.R. 200 are saying, this bill will not make agreement at the Law of the Sea Conference impossible, nor will it undercut any treaty which would result from such a gathering.

This bill, in fact, contains a provision allowing for the regulations issued pursuant to this act to be changed to conform to a future Law of the Sea Convention.

Last, Mr. Chairman, unilateral action to extend fisheries zones has already been taken by almost 40 nations in the world. Just recently, Canada warned its ICNAF colleagues that unless its fish stocks were better protected, it was considering extension of its fishing limit beyond 12 miles.

Only Tuesday, the President of Mexico told the United Nations General Assembly his country would establish an exclusive economic zone a full 200 nautical miles from its coasts.

The reason for this action is that Mexico expects there will be a considerable delay in getting a multilateral treaty at the Law of the Sea Conference.

So the argument that U.S. unilateral action will set off a "200-mile-limit race" does not hold. Other countries are not waiting to see what we will do. They are going ahead with actions which they regard as in their best interests to protect their fishermen and fish resources.

This country can do no less, Mr. Chairman, and that is why this Congress must pass H.R. 200.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. TALCOTT).

Mr. TALCOTT. Mr. Chairman, I regret that I have felt obliged to object to the transfer of time, but when time is so limited that we are permitted only 40 seconds on the amendment, I think it is unfair to all of us when we gang up. The purpose of my objection was to avoid this double unfairness.

Mr. Chairman, I speak in support of the bill. I am surprised that many conservationists have abandoned one of our most important conservation bills simply because it pertains to fish. Fish are underwater and out of sight and out of mind, and this valuable resource does not get much attention. Most of the conservationists would be up in arms today if a Russian oil derrick were put up 12½ miles out to sea. We would have immediate unilateral action then and the conservationists would be applauding the action.

The military has neglected fishing, and they ought not to neglect fishing. People involved in the military ought to be concerned about fishing because it is going to be important for our national defense.

Mr. Chairman, there are dozens of reasons why we should have this bill. I regret we have such limited time.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, last night we stayed here late worrying about another Tonkin Gulf. I say that this bill may turn out to be another Tonkin Gulf resolution. The gentleman from Massachusetts (Mr. STUDDS) said there was nothing in this bill that would set up a 200-mile territorial limit. But as the gentleman from Florida (Mr. BENNETT) very eloquently mentioned a moment ago, we are on the verge of an agreement in the Law of the Sea Conference on part of the problem. But if we come up now with this kind of unilateral action it is very likely that the Law of the Sea Conference will break down, and as a result many countries might then go to a 200-mile limit not just for fishing rights but for territorial rights as well. And that would destroy our national security and our deterrent force.

(By unanimous consent, Mr. COHEN yielded his time to Mr. PRITCHARD.)

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Chairman, nothing could be further from the truth that we are on the verge of an agreement on the law of the seas. Anyone who has read this text knows that is just a fallacy.

Mr. Chairman, we should be honest. There are some good arguments to be made on both sides of this issue, but to say we are on the verge of an agreement on the law of the seas is not true, and we should not kid anybody about it.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Chairman, I am opposed to this bill.

I agree with the preceding speaker at least to the extent that we ought to talk commonsense. I think if you are going to bluff somebody, which this bill seeks to do, then when your bluff is called, as in poker, the bluffer better have an ace in the hole. This bill offers confrontation as a solution to a very serious problem. There is no ace in the hole.

Another fatal flaw in this bill is that it seeks by unilateral action to resolve an international dispute. That gambit has not worked before and will not work now.

Finally, in mandating bilateral negotiations with severe penalties if refused, this bill trods a well traveled path leading nowhere. No other nation is going to knuckle under.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I rise in support of H.R. 200, which is a bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish, in order to protect the domestic fishing industry and for other purposes.

I was pleased to cosponsor this bill which should prove to be a tremendous help in our efforts to conserve and manage fisheries resources found off the coasts of the United States, and the anadromous fisheries resources of the United States in the high seas.

If we are to safeguard the well-being of commercial and recreational fishing off the coast of the United States for American, as well as foreign, commercial and recreational fishing interests, this legislation must be passed.

The vast operations of foreign fishing fleets have caused a vast depletion of stocks in our coastal waters and the area within which this bill is designated to reach. Commercial fishing in the high seas and off the coast of the United States has become a vertiable field of exploitation of our limited fisheries stocks.

The U.S. catch rose only from 4.3 billion tons in 1938 to 4.7 billion tons in 1973, while the estimated catch for foreign nations have more than tripled in the same time period. Another tragic aspect about the serious depletion of commercial fishing stock is the effect on recreational fishing. All too often dolphins and the beautiful marlin and sailfish are caught within schools of commercial fish and are not returned to the sea. The result has been a severe depletion in the numbers of these beautiful gamefish, who will face extinction without the necessary management and conservation efforts contained in this bill.

I should now like to review the main argument set out by opponents of this bill. It is their position that unilateral action by the United States—that is passage of this bill—would jeopardize any international agreements which might take place between 148 participating nations at the March 1976, Law of the Sea Conference. I should like to emphasize to my colleagues that this bill is an interim measure and would be superseded by any international agreements in which the United States might participate. It is clear that it may take several years before a workable international agreement can be ratified by all the 148 member nations.

In the interim period when this bill would apply, the management and conservation measures provided in this bill would be in effect to insure a continuing supply of commercial and game fish for all nations. This bill is not designed to prejudice any foreign fishing interests. On the contrary, it is designed to protect the availability of the various species for United States and foreign commercial and recreational fishing for years to come.

Now I should like to address myself to a problem I alluded to earlier—the severely depleted gamefish stocks. This bill exempts "highly migratory species" from Federal fisheries management authority. This exemption was placed in the bill in deference to the tuna industry. Opponents of this bill should be pleased to note that the foreign tuna fishing fleets would not be subject to any of the management provisions of this bill. Unfortunately, international agreements define "highly migratory species" as including tuna as well as a wide variety of gamefish such as swordfish, sailfish, sharks, dolphins, white, blue and striped marlin, as well as many other species of gamefish. These gamefish are in danger of virtual extinction in the next decade if we do not take drastic conservation efforts immediately.

Just to serve as an example of the serious state the future holds for recreational fishing, let us review some startling statistics affecting the marlin alone. The overall catch rate—fish per 1,000 hooks—for the beautiful white marin declined from 2.06 in 1956 to .80 in 1970. Also the overall catch rate for the blue marlin fell from 3.81 in 1962 to a serious low of .29 in 1970—a 92-percent drop. Recent statistics show that the decline is ever-increasing. To remedy this situation, I plan to offer an amendment to limit the definition of "highly migatory species" to the various species of tuna. This would effectively place the many species of endangered gamefish under the auspices of Federal fisheries management protection.

It is most important that we realize that conservation and respect for inhabitants of the sea is equally as vital as our efforts on the shore. Prolonging legislation such as this will only result in later more drastic conservation efforts. What assurances do we have that the 148-member nations will reach a viable international agreement to accomplish the ends this bill sets out to—none. Even though passage of this bill might be opposed as an unwise unilateral action—we must recognize that it is only an interim measure to stay in force until the 148-member nations of the Law of the Sea Conference reach an agreement.

Fellow Members, let us not forget our recent and most welcomed visit by Emperor Hirohito and Empress Nagako of Japan. On each step of their journey throughout the United States, the royal couple saw signs pleading for their assistance in saving the whale from virtual extinction.

Fellow Members, Americans across this Nation recognize the need for this legislation, as well as the continuing injury that will result from prolonging its long-awaited passage.

Thank you, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. Mr. Chairman, let me briefly remind the Members that the little protection we have for our fishermen in our 12-mile zone was achieved through unilateral action 9 years ago by this Congress. Although we were warned of the most dire consequences, there have been none.

The CHAIRMAN. The Chair recognizes the gentlewoman from Missouri (Mrs. SULLIVAN).

Mrs. SULLIVAN. Mr. Chairman, with respect to the 20-minute time limitation that I asked for, I would like to explain that we only had two very minor amendments to consider and I felt there was no need to provide an inordinate amount of time to discuss two minor amendments. That is why I asked for only 20 minutes.

The CHAIRMAN. If there are no more amendments to title I, the Clerk will report title II.

The Chair will remind the Members that until title II has been read in full no amendments are in order.

The Clerk read as follows:

TITLE II—INTERNATIONAL FISHERIES AGREEMENTS

SEC. 201. FISHING BY FOREIGN VESSELS IN THE FISHERIES ZONE AND SEAWARD OF THE ZONE FOR MANAGED ANADROMOUS SPECIES.

(a) PERMITS REQUIRED OF FOREIGN VESSELS.—No fishing vessel, except a vessel documented under the laws of the United States or registered under the laws of any State, shall engage in fishing within the fishery zone, or fishing seaward of the fishery zone for any anadromous species with respect to which a fishery management plan implemented pursuant to title III of this Act applies, unless such vessel has on board a valid permit issued by the Secretary pursuant to this section.

(b) APPLICATION FOR PERMITS.—Any foreign nation seeking a permit referred to in subsection (a) on behalf of one or more vessels registered under its flag may file an application therefor with the Secretary of State. Any application shall—

(1) state the name and official number of each fishing vessel for which a permit is sought;

(2) set forth the tonnage, capacity, speed, processing equipment, gear, and such other characteristics of each vessel as the Secretary may require;

(3) specify the species of fish for which the vessel or vessels will fish;

(4) specify the amount of fish or tonnage of catch contemplated;

(5) specify the ocean area in which, and the season or period during which, such fishing will be conducted; and

(6) set forth such other pertinent information as the Secretary may require.

(c) TRANSMISSION OF APPLICATION FOR ACTION.—Upon receipt of any application referred to in subsection (b), the Secretary of State shall—

(1) promptly transmit such application, together with his comments and recommendations thereon, to the Secretary, and

(2) transmit a copy of the application to the Secretary of the department in which the Coast Guard is operating.

(d) TENTATIVE APPROVAL OF APPLICATION AND PREPARATION OF STATEMENT OF CONDITIONS.—Upon receipt of any application, and after consultation with the Secretary of the department in which the Coast Guard is operating with respect to enforcement and after taking into consideration the views and recommendations of the Secretary of State and the appropriate regional marine fisheries council, the Secretary, of he determines that the fishing activity proposed in the application is consistent with the policy and purposes of this Act and with the national fisheries management standards set forth in section 302(c), and after taking into account any traditional or historical patterns of fishing by the applicant nation for the species of fish covered in the application, shall tentatively approve the application (subject to the provisions of subsection (e)) and shall prepare a statement of the conditions and restrictions which will apply to the fishing in which the foreign vessels propose to engage and to which the foreign country must agree before any permit may be issued under this section. Any statement of conditions and restrictions shall include—

(1) any adjustment deemed necessary by the Secretary in the number of fishing vessels for which permits may be issued;

(2) if the vessels will engage in fishing for a species for which a fishery management plan has been implemented pursuant to title III of this Act (hereinafter referred to in this section as a "managed species") all requirements imposed by such plan;

(3) If the vessels will engage in fishing for other than a managed species, such conditions and restrictions with respect to tonnage, season, catch, gear requirements, and statistical reporting as the Secretary deems appropriate for the species concerned;

(4) enforcement conditions, including but not limited to—

(A) procedures which will apply with respect to the boarding and inspection of vessels, including the requirement that the permit issued to any vessel pursuant to this section must be prominently displayed in the wheelhouse of the vessel and must be promptly surrendered to any officer authorized to enforce the provisions of this Act at the time of his boarding,

(B) requirements for on-board observers and reimbursement to the United States for costs of such observers, and

(C) prepayment of any license fees which may be levied in the case of managed species;

(5) in any case in which subsection (e) applies, a further condition that any other condition and restriction imposed pursuant to this subsection shall be provisionally applicable until such time as the fishery management plan is implemented and may be unilaterally amended by the Secretary after such impiementation in such manner as may be necessary to conform them to the plan requirements; and

(6) any other conditions and restrictions which the Secretary deems necessary or appropriate.

(e) SPECIAL CONSIDERATIONS IN CASE OF APPLICATION TO FISH FOR SPECIES FOR WHICH

FISHERY MANAGEMENT PLAN IS BEING DEVELOPED.—The Secretary may tentatively approve an application for fishing by foreign vessels for a species with respect to which a fishery management plan is being developed by a regional marine fisheries council or by the Secretary under title III of this Act only if the Secretary determines that the species is not depleted.

(f) CONGRESSIONAL ACTION ON APPLICATION.—Any application tentatively approved by the Secretary, together with the statement of conditions and restrictions prepared by the Secretary pursuant to subsection (d)—.

(1) shall be deemed, for the purposes of section 206, to be an international fisheries agreement; and

(2) shall be transmitted by the Secretary to the President for delivery to Congress pursuant to section 206(a)(1).

(g) ISSUANCE OF PERMITS.—If neither the House of Representatives nor the Senate disapproves an application pursuant to section 206, the Secretary of State shall transmit to the foreign nation concerned a statement of conditions and restrictions prepared by the Secretary with respect to the application. Upon acceptance of the conditions and restrictions by the foreign nation, the Secretary shall issue to the Secretary of State a permit for each fishing vessel entitled thereto. The Secretary of State shall promptly transmit the permits to the foreign nation for distribution to the operators of such vessels.

(h) SUSPENSION OR REVOCATION OF PERMITS.—

(1) REPEATED VIOLATIONS.—If the Secretary finds that any fishing vessel to which a permit is issued pursuant to this section has been repeatedly used in the commission of acts prohibited by section 310(2) for which civil penalties are assessed pursuant to section 311, the Secretary may suspend the permit for such period of time as he deems appropriate, or may revoke the permit.

(2) FAILURE TO PAY ASSESSMENT.—In any case in which any fishing vessel to which a permit is issued pursuant to this section—

(A) is used in the commission of any act prohibited by section 310(2) and is not seized pursuant thereto; and

(B) a civil penalty is assessed pursuant to section 311 for such act,

the Secretary shall, if such assessment is not paid within a reasonable time after the date of the assessment, suspend the permit until such time as the assessment is paid.

(3) PENALTY FOR FISHING DURING PERIOD OF PERMIT REVOCATION OR SUSPENSION.—Any fishing by a foreign vessel in the fishery zone, or seaward of the fishery zone for any anadromous species with respect to which a fishery management plan is implemented pursuant to title III of this Act, during the period in which any permit issued pursuant to this section to such vessel is suspended or revoked pursuant to this subsection, shall be deemed to be a violation of the Act of May 20, 1964 (as amended by section 402 of this Act).

(i) ISSUANCE OF WARNINGS.—In any case in which any officer authorized to enforce the provisions of this Act finds that a fishing vessel to which a permit has been issued under subsection (g) has been operated in such a manner as to constitute a violation of a condition or restriction accepted by the foreign nation concerned but that such violation is, in his judgment, a minor infraction, the officer may, in lieu of citing the master of such vessel for violation of section 310(2), issue the master of the vessel a warning. Any warning issued pursuant to this subsection shall be noted in writing on the permit.

(j) APPLICATION AND PERMIT FORMS.—The Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall prescribe the form for applications submitted pursuant to subsection (b) and for permits issued pursuant to subsection (g). The form prescribed for permits shall provide for the inclusion of such information as may be necessary to inform officers authorized to enforce the provisions of this Act of those conditions and restrictions accepted pursuant to subsection (g) which apply to the vessel.

(k) SPECIAL TREATMENT FOR FISHERY MANAGEMENT PLANS WHICH APPLY SEAWARD OF THE FISHERIES ZONE TO ANADROMOUS SPECIES.—

(1) PLANS DEEMED UNILATERAL CONSERVATION MEASURES.—Any fishery management plan prepared pursuant to section 304 or 305(d) which in whole or part applies with respect to any anadromous species in any area of the high seas seaward of the fisheries zone shall be deemed to be a unilateral measure of conservation of the United States within the meaning of article 7 of the Convention on Fishing and Conservation of the Living Resources of the High Seas.

(2) SUSPENSION OF TAKING EFFECT OF PLAN.—Notwithstanding any other provision of this Act, no fishery management plan referred to in paragraph (1), to the extent that it applies seaward of the fisheries zone, shall enter into force and effect until the close of the 6-month period immediately following the date of the promulgation of the regulations necessary to implement the plan. During such 6-month period, the Secretary of State shall—

(A) enter into negotiations pursuant to such article 7 with the other contracting parties to such Convention for the purpose of securing the consent of the contracting parties to such plan and the regulations implementing such plan; and

(B) enter into such other bilateral or multilateral negotiations as may be appropriate in order to obtain the consent of any foreign nation to such plan and the regulations implementing such plan.

(3) ENTERING INTO FORCE AND EFFECT OF PLAN.—After the close of the 6-month period referred to in paragraph (2), the fishery management plan concerned, to the extent that it applies seaward of the fisheries zone, and the regulations implementing such plan shall have force and effect within the area seaward of the fisheries zone to which it applies.

(4) SUSPENSION OF ENFORCEMENT BY THE UNITED STATES OF PLAN SEAWARD OF THE FISHERIES ZONE.—If permits are issued pursuant to subsection (g) to fishing vessels of any foreign nation which authorizes them to engage in fishing for any anadromous species to which a mangement plan referred to in paragraph (1) of this subsection applies, the United States shall not enforce the conditions and restrictions imposed with respect to such permits if the foreign nation gives written assurance to the Secretary of State that it will regulate such vessels in accordance with such conditions and restrictions. This paragraph shall only apply if, and during such time as, the Secretary, after consulting with the Secretary of State, finds that—

(A) the penalties imposed by the foreign nation on its vessels are equivalent to the penalties imposed pursuant to section 311 for violation of any such condition or restriction; and

(B) such foreign nation stringently assesses such penalties against its vessels or nationals which violate such conditions and retrictions.

(l) CONTINENTAL SHELF SPECIES.—Nothing in titles I, II, or III of this Act shall be construed to extend to any vessel not documented under the laws of the United States, or not registered under the laws of any State, the right or privilege to engage in fishing for any Continental Shelf species.

SEC. 202. TREATMENT OF CERTAIN EXISTING INTERNATIONAL FISHERIES AGREEMENTS.

(a) APPLICATION OF ACT TO EXISTING AGREEMENTS.—No international fisheries agreement (other than an agreement which is a treaty within the meaning of section 2 of article II of the Constitution) which is in effect on July 1, 1976, and which pertains to fishing in the waters described in title I of this Act or which pertains to species or stocks of fish, or fisheries, with respect to which the United States may exercise management and conservation authority pursuant to this Act, shall be extended or renewed except pursuant to this Act.

(b) RENEGOTIATION OF TREATIES.—The Secretary of State, in consultation with the Secretary and the Secretary of the department in which the Coast Guard is operating, shall initiate promptly after the date of the enactment of this Act, the renegotiation of all treaties within the meaning of section 2 of article II of the Constitution which pertain to fishing in the waters described in title I of this Act or which pertain to species, or stocks of fish, or fisheries, with respect to which the United States may exercise management and conservation authority pursuant to this Act, in order to conform such treaties to the provisions and requirements of this Act.

(c) REPORTS TO CONGRESS.—The Secretary of State shall submit to the Congress a written report on or before May 15, 1976, and annually thereafter, on the results of the negotiations which he is required to initiate under subsection (b).

SEC. 203. NEGOTIATIONS TO PRESERVE CERTAIN UNITED STATES FOREIGN FISHING RIGHTS.

(a) COMMENCEMENT OF NEGOTIATIONS.—Within 90 days after the date of enactment of this Act, the Secretary of State shall commence negotiations with each foreign nation, off of whose coast United States vessels are engaged in fishing for specific stocks of fish, for the purpose of entering into an international fishery agreement under which such foreign nation will grant to United States vessels equitable access, consistent with reasonable management and conservation practices, to such fish stocks within 200 nautical miles off the coast of such nation.

(b) ACTION IF FOREIGN NATION REFUSES TO NEGOTIATE OR VIOLATES TREATY.—(1) If the Secretary of State determines that—

(A) any foreign nation is refusing to commence negotiations, or fails to negotiate in good faith, with the United States in order to achieve the purpose of subsection (a); or

(B) although an international fishery agreement which achieves the purpose of subsection (a) is in force and effect, the foreign nation is not complying with its obligations under the agreement,

he shall certify that determination to the Secretary of the Treasury. Upon receipt of any such certification, the Secretary of the Treasury shall immediately take such action as may be necessary and appropriate to prohibit the importation into the customs territory of the United States of any seafood product of that foreign nation.

(2) For purposes of this subsection, any seizure of a United States vessel which is reimbursable under section 3 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1972) that is made by any foreign nation off whose coast United States vessels are engaged in fishing for specific stocks of fish shall—

(A) if no international fisheries agreement achieving the purpose of subsection (a) is in force and effect, be deemed to be a refusal by that nation to commence negotiations, or failure by that nation to negotiate in good faith, within the meaning of paragraph (1)(A) of this subsection, or

(B) if such an agreement is in force and effect, be deemed to be noncompliance by that nation with its obligations under that agreement within the meaning of paragraph (1)(B) of this subsection,

and the Secretary of State shall immediately make the appropriate certification to the Secretary of the Treasury required by paragraph (1) of this subsection.

(c) DURATION OF IMPORT PROHIBITION.—Any import prohibition which is imposed pursuant to subsection (b) shall remain in effect—

(1) if the prohibition was imposed by reason of subsection (b)(1), until such time as the Secretary of State certifies to the Secretary of the Treasury that an international fisheries agreement which achieves the purposes of subsection (a) has entered into force and effect between the United States and that foreign nation; or

(2) if the prohibition was imposed by reason of subsection (b)(2), until such time as the Secretary of State certifies to the Secretary of the Treasury that the foreign nation is complying with its obligations under the international fishery agreement.

(d) DEFINITION.—For purposes of this section, the term "seafood product" means any fish which is the product of a foreign nation, and any article which is the product of such nation and which is composed in whole or part of any fish which is the product of such nation; but excludes during the period of any import prohibition imposed pursuant to subsection (b) any such fish or article if the fish or fish constituting the article are harvested by United States vessels, irrespective of point of harvesting or offloading.

SEC. 204. NEGOTIATIONS REGARDING HIGHLY MIGRATORY SPECIES.

The Secretary of State, upon the request of, and in cooperation with, the Secretary, shall initiate and conduct negotiations with any foreign nation participating in a fishery for any highly migratory species for the purpose of entering into international fisheries agreements that would establish an appropriate international fisheries organization having authority to manage and conserve such highly migratory species.

SEC. 205. MULTILATERAL CONVENTION.

If the United States ratifies a multilateral convention resulting from any United Nations Conference on the Law of the Sea which contains provisions with respect to the breadth of the territorial sea and the fisheries or economic zone, the Secretary, in consultation with the Secretary of State, may promulgate pursuant to section 307 such changes, if any, in the regulations issued pursuant to this Act as may be necessary or desirable to conform such regulations with the provisions of such convention in anticipation of the date when such convention shall come into force and effect or otherwise be applicable to the United States.

SEC. 206. CONGRESSIONAL DISAPPROVAL OF CERTAIN FISHERIES AGREEMENTS.

(a) TAKING EFFECT OF INTERNATIONAL FISHERIES AGREEMENTS.—Any international fishery agreement (other than an agreement which is a treaty within the meaning of section 2 of article II of the Constitution) entered into after the date of the enactment of this Act, and any amendment entered into after such date to any international fishery agreement entered into before such date, shall enter into force and effect with respect to the United States if (and only if)—

(1) the President delivers a copy of the agreement to the House of Representatives and a copy to the Senate; and

(2) before the close of the 60-day period which begins on the day on which copies of such agreement are delivered to the House of Representatives and to the Senate, neither the House of Representatives nor the Senate adopts, by an affirmative vote of the majority of those present and voting in that House, a resolution of disapproval.

(b) RESOLUTION OF DISAPPROVAL.—For purposes of this section, the term "resolution of disapproval" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the does not favor the taking effect of the international fishery agreement transmitted to the Congress by the President on ", the first blank space therein being filled with the name of the resolving House and the second blank space therein being filled with the day and year.

(c) PROCEDURE IN EACH HOUSE.—

(1) A resolution of disapproval in the House of Representatives shall be referred to the Committee on Merchant Marine and Fisheries. A resolution of disapproval in the Senate shall be referred to the Committee on Commerce.

(2)(A) If the committee to which a resolution of disapproval has been referred has not reported it at the end of 7 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution of disapproval of the same international fishery agreement which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution of disapproval), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution of disapproval of the same international fishery agreement.

(3)(A) When the committee has reported, or has been discharged from further consideration of, a resolution of disapproval, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate on the resolution of disapproval shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(4)(A) Motions to postpone, made with respect to the discharge from committee or the consideration of a resolution of disapproval, and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives or the Senate, as the case may be, to the procedure relating to any resolution of disapproval shall be decided without debate.

(5) Whenever the President transmits copies of any international fisheries agreement to the Congress, a copy of such agreement shall be delivered to each House of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

(6) This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions of disapproval described in subsection (b); and they supersede other rules only to the extent that they are inconsistent therewith, and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

Mrs. SULLIVAN during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read and open for amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

Mr. FRASER. Mr. Chairman, reserving the right to object, will the gentlewoman from Missouri (Mrs. SULLIVAN) tell us, before I withdraw my reservation of objection, what form of motion she intends to offer in the way of limiting debate?

Mrs. SULLIVAN. Yes. Mr. Chairman, if the gentleman will yield, we intend to complete this bill tonight. The Members of the House and the Committee were promised last night that we would stay here until we complete the bill, and I think it would be difficult to get a quorum unless we get this bill completed soon. On this next title we have 3 amendments pending, and I think there are only 2 amendments on the other; one, we know, will be accepted, but on the other there may be a debate.

Mr. FRASER. Mr. Chairman, my question is this: What kind of a time limitation will the gentlewoman ask for?

Mrs. SULLIVAN. Mr. Chairman, if the gentleman will yield further, I was going to ask for 30 minutes. I would like to cut it down to 20 minutes if I could.

Mr. FRASER. Mr. Chairman, I wonder if the gentlewoman would be agreeable to holding off the offering of her motion to limit debate until the 2 amendments are offered, so that we do not have 30 Members standing up and asking to be recognized, which would divide the time into such small segments that it would be meaningless?

Mrs. SULLIVAN. Mr. Chairman, I am sure the gentleman understands the situation we are in.

Mr. FRASER. I understand, but still all of us have a very deep interest in this bill.

Mrs. SULLIVAN. Mr. Chairman, I will withhold the offering of my motion at this time.

Mr. FRASER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

AMENDMENT OFFERED BY MR. WAGGONNER

Mr. WAGGONNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WAGGONNER: Page 29, strike out line 5 and all that follows thereafter down through line 2 on page 32, and insert the following:

SEC. 203. NEGOTIATIONS TO SECURE CERTAIN UNITED STATES FOREIGN FISHING RIGHTS

(a) COMMENCEMENT OF NEGOTIATIONS.—The Secretary of State, upon the request of and in cooperation with the Secretary, shall initiate and conduct negotiations with any foreign nation in whose fishery conservation zones, or its equivalent, vessels of the United States are engaged, or wish to be engaged, in fishing, or with respect to anadromous species or Continental Shelf fishery resources as to which such nation asserts management authority and for which vessels of the United States fish, or wish to fish. The purpose of such negotiations shall be to conclude international fishery agreements which shall permit United States vessels equitable access to such fish, consistent with reasonable management and conservation practices, within such nation's fishery conservation zone or its equivalent.

(b) ACTION IF FOREIGN NATION REFUSES TO NEGOTIATE OR VIOLATES TREATY.—If the Secretary of State determines that—

(A) any foreign nation is refusing to commence negotiations with the United States in order to achieve the purpose of subsection (a); or

(B) although an international fishery agreement which achieves the purpose of subsection (a) is in force and effect, the foreign nation is not complying with its obligations under the agreement, he may certify that determination to the Secretary of the Treasury. Upon receipt of any such certification, the Secretary of the Treasury shall immediately take such action as may be necessary and appropriate to prohibit the importation into the customs territory of the United States of any seafood product of that foreign nation.

(c) DURATION OF IMPORT PROHIBITION.—Any import prohibition which is imposed pursuant to subsection (b) shall remain in effect—

(1) if the prohibition was imposed by reason of subsection (a)(A), until such time as the Secretary of State certifies to the Secretary of the Treasury that such foreign nation has commenced negotiations in order to achieve the purpose of subsection (a); or

(2) if the prohibition was imposed by reason of subsection (b)(B), until such time as the Secretary of State certifies to the Secretary of the Treasury that the foreign nation is complying with its obligations under the international fishery agreement.

(d) DEFINITION.—For purposes of this section, the term "seafood product" means any fish which is the product of a foreign nation, and any article which is the product of such nation and which is composed in whole or part of any fish which is the product of such nation.

Mr. WAGGONNER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. WAGGONNER. Mr. Chairman, the unilateral declaration of a 200-mile fisheries zone by the United States is a tremendously important and necessary action.

For too many years we have seen the buildup of foreign fleets in our coastal waters. We have seen the ravaging effects of these foreign fleets, as one fishery resource after another has been overfished. Last year, we saw how foreign fleets took 7-billion pounds of fish from waters near our shores. The U.S. fleet was able to harvest only 5-billion pounds.

Declaring a 200-mile limit will enable us to manage these valuable resources, setting such quotas as are necessary to allow the declining stocks to rebuild.

The proposed legislation will enable us to allocate to foreign fleets only that portion of the allowable catch that our own fishermen cannot or will not harvest themselves.

There is concern over the unilateral aspects of this legislation. Ideally, control over coastal resources would have been agreed upon formally in an international forum. We have seen the futility of the Law of the Sea Conference to come to this agreement despite their 5 year effort.

We can no longer wait for the Law of the Sea to act if we are to preserve the remaining resources.

However, as we take this unilateral move, we must be consistent. We cannot declare that we have the right to set up a 200-mile fishery zone, and determine whether foreign fleets will be allowed any portion of the resource, and also deny similar action to other nations. The proposed bill is guilty of such inconsistency in section 203. This section threatens a mandatory trade reprisal in the form of a ban on seafood imports against those nations who may be exercising the same control over their resources as we plan to do in our extended jurisdiction.

This is not right. And, for this reason, I introduce an amendment which provides a substitute section 203.

The purpose of section 203 is to assist our distant water shrimp and tuna fishing fleets that fish off the shores of other nations. Many of these nations have already declared 200-mile fishery jurisdiction, and others are expected to do so in the near future.

Presently, section 203 directs the Secretary of State to negotiate with those nations to seek equitable access by U.S. boats to fish stocks within 200 miles of their shores. The present section further calls for a mandatory embargo on seafood products from such nations if they refuse to negotiate or negotiate in good faith. The section continues to provide that an arrest of a U.S. fishing boat automatically triggers the trade reprisal.

This provision, in effect, says that the United States has the right to control its fishery resources, but that other nations cannot have that same right. To be sure, it is our intention to allow other nations to continue to fish in our 200-mile zone, provided there is surplus stocks available. We want other nations to continue to allow our distant water fleets to operate, and we want to encourage negotiations for this purpose. This encouragement should not be as heavyhanded as it appears in the present draft.

As it is now proposed, the section removes all flexibility on the part of the executive. International confrontations and executive decisions are at the mercy of a shrimp or tuna boat captain. Suppose a vessel is arrested by a South Ameircan nation from whom we wish to purchase oil. Automatically, the executive must ban seafood products from that country. One can only surmise that a counter move by the nation would be forthcoming. Trade wars help neither nation.

On the other hand, if the enforcement of our 200-mile zone requires our Coast Guard to arrest a foreign vessel, do we want to be giving that nation a signal that trade reprisals are fair play in such situations?

The provision has other negative implications. Cutting off certain seafood products, especially those not found near our shores, would adversely affect consumer prices.

My amendment merely removes the mandatory nature of the reprisal from section 203. The Secretary of State is still directed to negotiate, to allow U.S. distant water fleets to continue to fish off other nations' shores. If these nations refuse to negotiate, the Secretary has discretionary authority to ban seafood imports from that nation. The Secretary has the right to avoid such a drastic step if total national interest is served by avoiding the confrontation.

This amendment provides help for our distant water fisheries, but does not jeopardize relationships with other nations by imposing on the executive mandatory action we may not wish in a given situation.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, I think the intent of the gentleman's amendment is apparent. The gentleman is softening the boycott provisions.

We had thought that the committee would make it mandatory since the executive has not exercised its discretion in the past under the Tuna Fishermen's Protection Act or under the Pelly Act. Undoubtedly the diplomatic thing to do is to make it discretionary.

Mr. Chairman, the Committee on this side is prepared to accept the gentleman's amendment.

Mr. WAGGONNER. Mr. Chairman, I thank the gentleman very much.

Does the minority have the same viewpoint with regard to acceptance of the amendment?

Mr. RUPPE. Mr. Chairman, this side is agreeable to accepting the amendment.

Mr. PEPPER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, and members of the committee, I want to rise in opposition to this bill. I have a letter here from the executive director of the Southeastern Fisheries Association.

He says:

You may multiply 20 times the impact of the recent Bahamian government controversy over the spiny lobsters if this legislation is passed. Florida has 1500 shrimp boats which rely on the Caribbean and South American waters—they will be forced back into the U.S.—this will be a waste of 10 million pounds of crawfish because the Caribbean and South American countries do not have the fishing capability.

Recently—I believe it was in 1974—the Congress identified the lobster as being indigenous to the coastal shelf of the

United States. We were protecting what we thought legitimately to be our own industry, but the impact of that perhaps was unexpected to those who advocated that lobster legislation.

Immediately after we adopted that legislation, the Bahamian Government, only changing, as it were, the names and the dates, adopted a resolution declaring that the spiny lobster is indigenous to their continental shelf and put a 200-mile limit upon access to the waters of the Bahamas.

Let me tell the Members what the effect of that was upon our fishing industry in Florida, and I am reading here from the Southeastern Fisheries Association communication to the gentlewoman from Missouri (Mrs. SULLIVAN).

The letter says:

According to figures obtained from NMFS, Florida fishermen in 1974 landed over 4 million pounds of spiny lobsters taken in international waters but on the Bahamian continental shelf. This was accomplished by about 260 boats and 800 fishermen and had a dockside value of over 6 million dollars. As a comparison, according to "Fisheries of the United States, 1974" (page 19), this 6 million dollar fishery that has just been lost to us is more valuable than any one of the following: Cape Charles, Va., Point Judith, R.I., Newport, R.I., Boston, Mass., Cape May, N.J., and Beaufort-Morehead City, N.C.

Mr. Chairman, I know those who advocate this bill mean well, but it is going to hurt very seriously the shrimp fishing industry which is centered largely in the southeast because we get our shrimp largely from the waters of Mexico and South America, particularly off the coast of Brazil.

Brazil and several other Latin American countries have had a 200-mile limit. We have been quarreling with them about it, claiming it was not legal. We have had difficult negotiations with them in trying to get some rights. Now we have to pay the patrol boats of Brazil for our shrimp fishermen going into their 200-mile limit to catch some shrimp.

Therefore, Mr. Chairman, this is going to hurt the fishing industry of the United States.

Second, it is contrary to the fixed policy of this country that any nation unilaterally should extend its authority many miles beyond the accepted 3- or 12-mile limit. If we can extend our authority 200 miles, why not 1,000 miles?

Only 11 countries, most of them Latin American countries, have adopted a 200-mile limit.

We just had a Law of the Sea Conference in Caracas a little bit ago. We are going to have another one in March in New York City.

The United States, we often say, is the greatest power in the world. For us, in between those two conferences, to come out with a unilateral declaration of a 200-mile limit just does not seem to me to be consistent with the declared policy and the best interests of the United States.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I sympathize with my colleague, the gentleman from Florida. The gentleman has mentioned Cape May. That happens to be in my district. I am happy that the gentleman's shrimp industry is still alive but my fishing industry in Cape May is not alive.

I would ask the gentleman from Florida does the gentleman find anything equitable in the fact that we are subsidizing the South American countries to protect their 200-mile limit and yet we are not protecting the fishing industry on the Atlantic and Pacific coasts?

Mr. PEPPER. I cannot altogether agree with the gentleman from New Jersey.

Mr. HUGHES. But, I repeat, Mr. Chairman, does the gentleman from Florida find any equity in that situation?

Again I say that I have a dying fishing industry in my district.

Mr. PEPPER. Mr. Chairman, I think that the better course of action for this country to take is to go on as we are going, try to persuade the other nations of the world to agree upon an acceptable solution of this problem for these purposes and then we will have something that the world can live with and we will not be risking a confrontation with other nations of the world. Thereby we would be adopting the best course I believe for the fishing interests of the United States as well.

Mr. HUGHES. If the gentleman will yield further, let me say that we cannot wait for that, we will not have anything left by the time the Conference of the Sea is over. I might add that right now they pretty well have everything that they wish so why would they want to sit down and negotiate when they have everything they need.

Mr. PEPPER. I realize that off the New England coast they have a problem, but the gentleman must consider that we have a long coast on the Atlantic Ocean and on the Pacific Occean and the Gulf of Mexico.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. WAGGONNER).

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. FENWICK:

Page 22, line 18, after the word "deemed" strike ", for the purposes of section 206,";

Line 21, strike out "pursuant" and all that follows thereafter up to and including line 22;

Line 23, strike out "If" and all that follows up to and including the numerals "206" on line 25;

Page 30, line 6, strike out "the" and all that follows thereafter up to and including line 8, and substitute in lieu thereof the following: "any such ships of those countries deemed to be in noncompliance within the meaning of paragraphs (1)(A) and (1)(B) of this subsection from continuing their fishing activities";

Page 31, line 4, strike subsection (c);

Page 31, line 18, strike subsection (d);

Page 33, line 1, strike Sec. 206.

POINT OF ORDER

Mr. LEGGETT. Mr. Chairman, I have a point of order. We have already amended page 30, and this amendment would purport to amend page 30.

Mrs. FENWICK. I was trying to do that, and I did not know how to intervene in time. I do not know the parliamentary procedure. I apologize.

Mr. LEGGETT. It comes too late.

Mrs. FENWICK. No, no; it is still germane—the part that starts on page 31 striking subsection (c); page 31, line 18, striking subsection (d); and page 33, line 1, striking section 206.

The CHAIRMAN. The Chair would advise the gentlewoman from New Jersey that the part of the amendment that appears on page 30 would not be in order at this time. The balance of the amendment would be in order. Without objection, the amendment is modified to delete reference to that portion of title II already amended.

There was no objection.

Mrs. FENWICK. Mr. Chairman, the purpose of this amendment—and I will be brief because I know the Members wish to leave—is to strike this embargo, this mandatory requirement that we embargo the fish products of any nation found to be in violation of this, which is supposed to be and was introduced originally as an interim measure. Although all efforts to bring the interim feeling into the bill have been rejected, although all efforts to say that we do submit ourselves to international law and treaty have been rejected, surely we cannot enter into an embargo of fish products of nations that we find in violation of a unilateral decision that we take without regard to our international obligations. I would urge that this whole section, starting on page 31, going right through to page 32, lines 1 and 2, starting on page 31, line 18, striking all subsection (d), and page 33, line 1, right through page 37, line 9, be stricken and that this unilateral and harsh action against other nations not be taken this way on the floor of this House.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK).

The amendment was rejected.

Mr. FRASER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in part to ask the authors of the bill some questions about the intentions of Titles I and II. The bill purports to establish a 200-mile economic zone effective July 1, 1976. My question is, is it intended that that be effective immediately, notwithstanding the existence of a number of bilateral fishing agreements?

Mr. LEGGETT. If the gentleman will yield, if I could respond to that, the answer would be no, not until July 1, 1976.

Mr. FRASER. Not until when?

Mr. LEGGETT. July 1, 1976.

Mr. FRASER. No; I prefaced my question by making the point that it does not become effective until July 1, 1976, but on that date does the 200-mile regime become effective, notwithstanding the fact that there may be outstanding some bilateral fishing agreements?

Mr. LEGGETT. If the gentleman will yield, it becomes effective and, of course, pursuant to the terms of the bill, we instruct the Secretary of State to renegotiate all bilaterals to come into compliance with the bill. Assuming we cannot

renegotiate a bilateral, then we might be at a partial impasse; but fortunately we are in the situation where practically all of our bilateral fishing agreements that are subject to our committee's jurisdiction expire within 1 year.

Mr. FRASER. But if no new agreement is reached, then is that 200-mile regime effective?

Mr. LEGGETT. The 200-mile regime is effective, and then if there are no bilaterals, as each country representing the 1,000 ships that are currently fishing in our waters apply for a permit to fish within the areas, that would be termed a bilateral type of agreement.

Mr. FRASER. If there were a bilateral which did not terminate prior to July 1, 1976? Would it remain in force for the remainder of its life?

Mr. LEGGETT. It would remain in force for its life, until renegotiated.

Mr. FRASER. In other words, the gentleman does not intend to override the bilaterals?

Mr. LEGGETT. No, we do not.

Mr. FRASER. The second question is does the gentleman regard the 200-mile zone as an exercise under article VII of the 1958 Fisheries Convention?

Mr. LEGGETT. The simple answer to that is no. We are taking this action just as a similar country would take action all over the world, and also exactly on the same basis that we extended our jurisdiction in 1966 with the 12-mile legislation.

We are merely extending the 9-mile jurisdiction added onto the 3-mile territorial sea to a total of 200 miles.

Mr. FRASER. In other words, the gentleman does not purport to be acting within the provisions of the 1958 Convention?

Mr. LEGGETT. Not with respect to this.

Mr. FRASER. With respect to the seaward extension from the 200-mile limit for anadromous species, the gentleman agrees that the bill purports to make that an article 7 proceeding under the 1958 Convention. Is that right?

Mr. LEGGETT. That is true.

Mr. FRASER. Is it not the case that in the 1958 Convention two requirements must be met. One is, it must be nondiscriminatory with respect to both domestic and foreign fishermen?

Mr. LEGGETT. That is true.

Mr. FRASER. The second is, does the zone that is involved not have to be contiguous to the territorial sea?

Mr. LEGGETT. It would be contiguous to the fishing zone.

Mr. FRASER. No. I will ask the gentleman to reconsider. The 1958 Convention refers to the territorial sea.

Mr. LEGGETT. Let me answer this. We do envision under the 1958 Convention that there would be certain controls beyond the territorial limit and of course in that bill they are just concerned with the territorial limit. They did not envision a territorial limit and beyond that a fishing limit, et cetera, but that they would envision an extensive control by a littoral state. But they do envision there will not be discrimination. In that respect I might say to the gentleman that we do envision in this bill that there could be discrimination, so in that respect we are at odds with the 1958 Convention.

Mr. FRASER. So with regard to the seaward extension for anadromous species the gentleman does not purport to come within the Convention even though the bill makes that claim?

Mr. LEGGETT. That is right. What we do come within is the lipservice to the single text on the Law of the Sea where they do purport to give lipservice to the 200 miles and then, No. 2, give lipservice to the seaward extension with respect to the anadromous fish.

Mr. FRASER. I understand the effect of the bill. Let me pursue this further. Does the gentleman agree we are not operating within the 1958 Convention?

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

(On request of Mr. STUDDS, and by unanimous consent, Mr. FRASER was allowed to proceed for 2 additional minutes.)

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Massachusetts.

Mr. STUDDS. I want to correct the RECORD in one respect, that, in our bill, insofar as we claim jurisdiction beyond 200 miles with respect to anadromous species, we do base that on article 7 of the Convention.

Mr. FRASER. I know it says that, but the gentleman from California concedes that one essential requirement is not being met, namely that any conservation measures must be nondiscriminatory.

Mr. STUDDS. The only respect in which action is taken under this bill which is based on that Convention is in that respect, the seaward extension beyond 200 miles.

Mr. FRASER. I understand that but the procedures that are used and standards in the bill do not conform to the Convention. Let me get to the point I want to, which is, through this device, which does not meet the Convention, it is proposed the United States naval authority be extended to deal with fishing vessels outside the 200-mile limit.

Mr. STUDDS. I am not proposing that.

Mr. FRASER. The gentleman from California (Mr. LEGGETT) is proposing that the U.S. Navy's responsibility be extended beyond the 200-mile limit. What if the Japanese and other ships are fishing beyond the zone we have established as in the United States?

Mr. STUDDS. I would not agree with that.

Mr. FRASER. Where have I gone wrong?

Mr. STUDDS. Your statement is based on the assumption that one of the 1958 Conventions to which you refer speaks to the fisheries zone. Neither speaks to that question.

Mr. FRASER. I am making the point that the gentlemen is not proposing conservation measures in the bill which are nondiscriminatory, which is a requisite to exercising article 7 of the 1958 Convention. Despite the gentleman's claim to be operating under article 7, the bill itself will be violating those provisions. But notwithstanding, the gentleman is going to try to give the U.S. Navy authority to deal with the ships on the high seas beyond the 200-mile limit.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words. I yield to the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I ask, how far beyond the 200 miles does the gentleman propose to have the U.S. Navy patrolling and regulating and inspecting ships of other nations fishing for salmon?

Mr. LEGGETT. If the gentleman will yield further, it is generally conceded in the law of the sea that the littoral nations on the basis of conservation plans would have the right to manage the species to the extent of their range.

Mr. FRASER. This is the problem we have heard today. The gentleman is moving ahead of any agreement among the major nations of the world and the world community. The gentleman has decided that the United States has to move now when there is no agreement. On top of that he now looks to something that has not happened to defend his position.

Mr. LEGGETT. We could have ignored article 7. I frankly admit, we, in effect, could violate the nondiscriminatory provision when we implement the fishing plan. Possibly we would not when we implement the fishing plan, because it has to have certain consultation with the Secretary of State and other people, but it is not limited under the act. We give the same authority to the Fishing Council interacting with the Secretary of Commerce and the Secretary of State to develop a plan with the anadromous fish within the zone subject to the conditions that we mentioned on pages 25 and 26.

Mr. FRASER. I thank the gentleman for his point, but I would like to stress to the Committee what we are doing here. We are not only violating the provisions of the 1958 Convention, which the bill claims we are complying with, but we are claiming jurisdictional authority to deal with some nations' vessels not within the 200-mile limit, but beyond. It is a unilateral decision of the United States.

If I may ask the gentleman, using this example, supposing the Soviets continue to come in off our fisheries in the North Atlantic, what does the gentleman propose we do?

Mr. LEGGETT. I believe the Soviet Union is prepared to yield to an exercise of conservation jurisdiction by the United States, insofar as we do not purport to take a total exclusive claim to the area and will allow for the taking of an optimum obtainable yield. We do not believe we can take an optimum obtainable yield ourselves and that will leave a substantial surplus for Bulgaria and Poland and these other countries that are taking 50 percent of the yield off the American coast.

I might say, we have not as yet implemented by legislation the 1958 agreement, which one would anticipate.

Second, I would point out that the agreement that the gentleman talks about that we have signed has not been signed by the Soviet Union, has not been

signed by Japan, has not been signed by Korea, has not been signed by most of the people swiping our fish.

Mr. FRASER. I am not talking about intervention on that basis. There are historic fishing rights that Japan, the Federal Republic of Germany and others, have enjoyed. We are purporting unilaterally to restrict that right.

Mr. LEGGETT. No. The countries that have whiskers, I mean substantial whiskers, we are going to respect. The ones that have crept up over the past year, we have just Polish ships off California in the past year, do not have historic rights. We do not intend to recognize the historical rights that nations that have vacuumed our shores over the past few years.

Mr. FRASER. The gentleman would agree that in the North Atlantic fisheries meeting a few weeks ago there was an agreement reducing the catch by 23 percent. Would the gentleman agree that reduction in catch will have the effect of rebuilding stocks in the North Atlantic?

Mr. LEGGETT. That will help; but unfortunately, it is not all that simple.

Mr. FRASER. Is it not true, that this is no emergency situation, and that if we do not act this year, the fish are not going to disappear in the North Atlantic?

Mr. LEGGETT. That is partially true.

Mr. FRASER. Then if we wait for a few more years, it will not be too late.

Mr. LEGGETT. But unfortunately, we are still in a situation where we are taking like 250,000 tons off the Atlantic shores and the Soviet Union and others are taking 700,000, according to the revised agreement; so they are still taking three times more than what we are taking off those particular shores and that is an intolerable situation.

Mr. FRASER. I agree that there is a problem about inequitable division, and I think we have to reclaim our fisheries, but the problem is the way we are doing it. There is no emergency. The fish stocks are going to be rebuilt under the conservation provisions agreed to a few weeks ago. What we should do is work out an orderly arrangement.

The CHAIRMAN. Are there any further amendments to title II? If not, the Clerk will read title III.

The Clerk read as follows:

TITLE III—MANAGEMENT OF THE FISHERIES

SEC. 301. UNITED STATES JURISDICTION OVER CERTAIN FISHERIES.

(a) IN GENERAL.—The fisheries management responsibility and authority of the United States extends to—

(1) any coastal species within the fisheries zone;

(2) any anadromous species wherever found throughout the range of such species in the high seas; and

(3) any Continental Shelf species.

(b) INTERNATIONAL REGULATION OF HIGHLY MIGRATORY SPECIES.—The fisheries management responsibility and authority of the United States under this Act does not extend to highly migratory species, and the United States shall not recognize the right of any foreign country to extend its rights, claims, or jurisdiction to such species. Such species shall be managed pursuant to international fishery agreements established for such purpose.

SEC. 302. FISHERIES MANAGEMENT RESPONSIBILITIES OF THE SECRETARY.

(a) IN GENERAL.—Subject to the provisions of this Act, the Secretary shall manage all fisheries over which the United States has fishery management responsibility and authority under section 301(a). The management of any such fishery shall result in the regulation of fishing in that fishery by any vessel documented under the laws of the United States or registered under the laws of any State and by any other vessel in such manner as is necessary and appropriate to carry out the policy and purposes of this Act.

(b) MANAGEMENT PURSUANT TO MANAGEMENT PLAN.—Except as provided in section 305(d) or 308, the Secretary may not manage any fishery under the authority of subsection (a) except in accordance with a management plan which is prepared pursuant to section 304 for such fishery.

(c) NATIONAL FISHERIES MANAGEMENT STANDARDS.—The management of the fisheries pursuant to this Act shall be consistent with the following national fisheries management standards:

(1) Management and conservation measures shall be based upon the best scientific biological information available.

(2) To the extent possible, an individual stock of fish shall be managed throughout its range.

(3) Management and conservation measures shall not discriminate between residents of different States.

(4) Management and conservation measures shall be designed to achieve the optimum sustainable yield of a stock of fish on a continuing basis.

(5) Management and conservation measures shall promote efficiency in harvesting techniques.

(6) Management and conservation measures shall be formulated to allow for unpredicted variations in fishery resources and their environment and for possible delay in the application of such measures.

(7) Management and conservation measures shall not result in unreasonable administration or enforcement costs.

(8) Management and conservation measures shall be designed to prevent depletion of fisheries resources.

SEC. 303. REGIONAL MARINE FISHERIES COUNCILS.

(a) ESTABLISHMENT.—There are established seven regional marine fisheries councils to be known respectively as the New England Marine Fisheries Council, the Mid-Atlantic Marine Fisheries Council, the Southern Atlantic Marine Fisheries Council, the Gulf Marine Fisheries Council, the Pacific Marine Fisheries Council, the Alaska Marine Fisheries Council, and the Western Pacific Marine Fisheries Council (hereinafter referred to in this Act as the "Council" or the "Councils"). The States represented by each respective Council shall be as follows:

New England Marine Fisheries Council

Maine;
New Hampshire;
Massachusetts;
Rhode Island; and
Connecticut.

Mid-Atlantic Marine Fisheries Council

New York;
New Jersey;
Delaware;
Pennsylvania;
Maryland; and
Virginia.

Southern Atlantic Marine Fisheries Council

North Carolina;
South Carolina;
Georgia;
Florida;
The Commonwealth of Puerto Rico; and
The Virgin Islands.

Gulf Marine Fisheries Council

Texas;
Louisiana;
Mississippi;
Alabama;
Florida;
The Commonwealth of Puerto Rico; and
The Virgin Islands.

Pacific Marine Fisheries Council

California;
Oregon;
Washington; and
Idaho.

Alaska Marine Fisheries Council

Alaska;
Oregon; and
Washington.

Western Pacific Marine Fisheries Council

Hawaii;
American Samoa; and
Guam.

(b) MEMBERSHIP OF COUNCILS.—

(1) NUMBER AND APPOINTMENT.—Each Council established by subsection (a) shall consist of the following members:

(A) the Executive Director of the Marine Fisheries Commission for the geographical area concerned;

(B) one member appointed by, and serving at the pleasure of, the Governor or chief executive officer of each State represented on the Council; except that in the case of the Alaska Marine Fisheries Council, three members appointed by the Governor of Alaska;

(C) the Regional Director of the National Marine Fisheries Service for the geographical area concerned;

(D) the Regional Director of the United States Fish and Wildlife Service for the geographical area concerned;

(E) six members (other than officers or employees of the Federal Government or of any State government) appointed by the Secretary from a list prepared by the members specified in subparagraphs (A), (B), (C), and (D) of this paragraph of not less than 20 individuals having knowledge and experience in commercial or recreational fishing, and such appointments shall fairly reflect the degree to which commercial and recreational fishermen participate in the fisheries in the geographical area concerned: and

(F) two members (other than officers or employees of the Federal Government or of any State government or individuals referred to in subparagraph (E)) who shall represent the public interest and who shall be appointed by the Secretary from a list prepared by the members specified in subparagraphs (A), (B), (C), and (D) of this paragraph of not less than six individuals.

A vacancy in any Council shall be filled in the manner in which the original appointment was made.

(2) CONTINUATION OF MEMBERSHIP.—If any member of any Council who was appointed to such Council pursuant to paragraph (1)(A), (C), or (D) leaves the office he is holding at the time of appointment, or if any member of any Council who was appointed from persons who are not officers or employees of any government becomes an officer or employee of any government, he may continue as a member of such Council for not longer than the 90-day period beginning on the date he leaves that office or becomes such an officer or employee, as the case may be.

(3) TERMS.—

(A) Except as provided in subparagraphs (B) and (C) of this paragraph, any member appointed pursuant to paragraph (1)(E) or (F) shall be appointed for a term of 3 years.

(B) Of the members first appointed pursuant to paragraph (1)(E)—

(i) two shall be appointed for a term of 1 year,

(ii) two shall be appointed for a term of 2 years, and

(iii) two shall be appointed for a term of 3 years,

as designated by the Secretary at the time of appointment.

(C) Of the members first appointed pursuant to paragraph (1)(F)—

(i) one shall be appointed for a term of 2 years; and

(ii) one shall be appointed for a term of 3 years,

as designated by the Secretary at the time of appointment.

(D) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(E) Any individual appointed pursuant to paragraph (1) (E) or (F) is eligible for reappointment.

(c) PAY AND TRAVEL EXPENSES.—

(1) PER DIEM RATE.—Members of each Council, other than members who are full-time officers or employees of the United States or any State, shall each be entitled to receive $100 for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council.

(2) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for any Council, the members thereof shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(d) TRANSACTION OF BUSINESS.—

(1) QUORUM.—A majority of the members of any Council shall constitute a quorum, but a lesser number may hold hearings.

(2) CHAIRMEN.—A Chairman for each Council shall be elected by the members of each Council from among members appointed pursuant to subsection (b)(1) (B), (E), and (F).

(3) MEETINGS.—Each Council shall meet at the call of the Chairman or a majority of its members, but shall meet for at least 1 day during each calendar quarter.

(e) STAFF AND ADMINISTRATION.—

(1) COUNCIL STAFF.—The Secretary shall make available to each Council such staff, information, and personnel services as it may reasonably require to carry out its functions.

(2) DETAIL OF FEDERAL PERSONNEL.—Upon request of any Council, and after consultation with the Secretary, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist it in carrying out its functions under this Act.

(3) SUPPORT SERVICES.—The Administrator of General Services, after consultation with the Secretary, shall provide to any Council on a reimbursable basis such administrative support services as the Council may request.

(4) STATEMENT OF ORGANIZATION.—Each Council, after consultation with the Secretary, shall publish and make available to the public a statement of the organization, procedure, and practices of the Council.

(f) ADVISORY PANELS.—Each Council may establish advisory panels to assist the Council in carrying out its functions under this Act.

(g) FUNCTIONS.—

(1) IN GENERAL.—Each Council shall—

(A) solicit, by means of public hearings to the extent practicable, and evaluate on a continuing basis comments and recommendations from all interested persons in the geographical area concerned with respect to the administration and implementation of the provisions of this Act;

(B) develop fishery management plans pursuant to section 304 for adoption by the Secretary, and take such other actions with respect to fishery management plans as may be required by such section; and

(C) submit to the Secretary, within 30 days after the close of each calendar quarter, a report setting forth the results of the Council's activities under this Act during such quarter.

(2) STATEMENT OF DISAGREEMENT.—If any matter submitted to the Secretary pursuant to subparagraph (B) or (C) of paragraph (1) did not receive the unanimous vote of the Council, the members of the Council in disagreement may submit to the Secretary a statement setting forth the reasons for their disagreement.

SEC. 304. PREPARATION OF FISHERY MANAGEMENT PLANS BY COUNCILS.

(a) PLANS PREPARED ON INITIATIVE OF COUNCIL OR AT REQUEST OF SECRETARY.—

(1) ON INITIATIVE OF COUNCIL.—Any Council may at any time prepare a fishery management plan with respect to any species referred to in section 301(a).

(2) AT REQUEST OF SECRETARY.—The Secretary may request any Council to prepare a fishery management plan with respect to any species referred to in section 301(a).

(3) APPLICATION OF PLANS.—Any fishery management plan prepared pursuant to paragraph (1) or (2) shall be limited to species in the fisheries zone (and seaward of the zone in the case of anadromous species and Continental Shelf species) adjacent to the States represented on the Council. In any case in which the range of a species includes waters within the fisheries zone which are adjacent to States represented on more than one Council, the Secretary shall designate which Council shall prepare the fishery management plan.

(b) SCOPE OF MANAGEMENT PLANS.—

(1) IN GENERAL.—Any fishery management plan which is prepared by any Council shall—

(A) contain the conservation and other measures which the Council deems appropriate with respect to the management of the species or the fishery concerned; and

(B) specify such conditions and limitations governing fishing by any vessel documented under the laws of the United States or registered under the laws of any State, or by any other vessel, which the Council believes should be implemented to carry out such measures within the territorial sea of the United States, the fisheries zone, and, in the case of any anadromous species or Continental Shelf species, in water seaward of such zone.

(2) INFORMATION WITH RESPECT TO RELEVANT INTERNATIONAL OBLIGATIONS.—Any Council which is preparing a fishery management plan on its own initiative shall request the Secretary to provide, and the Secretary when requesting any Council to prepare any such plan shall provide, to the Council such information as may be appropriate with respect to those international fisheries agreements and any other pertinent information relating to foreign fishing which apply, or may apply, within the fisheries zone and in waters seaward of such zone with respect to the fishery covered by the plan.

(3) SPECIFIC PLAN REQUIREMENTS.—Any fishery management plan prepared by any Council may—

(A) designate zones where, and designate periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified vessels or with specified gear;

(B) establish a system under which access to the fishery shall be limited in order to achieve optimum sustainable yield on a basis which may recognize, among other considerations, present participation in the fishery or fisheries, historical fishing practices and dependence on the fishery, value of existing investments in vessels and gear, capability of existing vessels to engage in other fisheries, history of compliance with fisheries regulations imposed pursuant to this Act, and the cultural and social framework in which the fishery is conducted;

(C) establish limitations on the catch of fish based on area, species, size, number, weight, sex, incidental catch, total biomass, and other factors necessary to carry out the policy and purposes of this Act, including the size or number or nature of the vessels or gear used in such catch;

(D) prohibit, limit, condition, or require the use of specified types of fishing gear, vessels, or equipment for such vessels, including devices which may be required solely or partially to facilitate enforcement of the provisions of this Act;

(E) specify those licenses, permits, or fees (the amount of which may vary between domestic and foreign fishermen, between different categories of domestic fishermen, or between different categories of foreign fishermen) which should be required as a condition to engaging in any fishery or other activity regulated pursuant to this Act;

(F) require the submission to the Secretary of pertinent statistics, including but not limited to information regarding type of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, and number of hauls; and

(G) prescribe such other limitations or requirements as the Council deems necessary and appropriate to carry out the purposes of this Act.

(4) CONFIDENTIALITY OF STATISTICS.—Statistics which are required to be submitted to the Secretary by persons pursuant to paragraph (3)(F) shall be confidential (except when required under court order) and the Secretary shall by regulation prescribe such procedures as may be necessary to preserve such confidentiality. Such statistics may be released or made public in any aggregate or summary form which does not directly or indirectly disclose the identity or business of such persons.

(5) PROPOSED REGULATIONS.—Any Council may prepare such proposed regulations as it deems necessary and appropriate to carry out any fishery management plan prepared by it and the Secretary shall take such regulations into account when developing proposed regulations to be promulgated pursuant to section 307.

SEC. 305. REVIEW, ADOPTION, OR OTHER ACTION BY SECRETARY REGARDING FISHERY MANAGEMENT PLANS

(a) ACTION BY SECRETARY AFTER RECEIPT OF PLAN.—Upon receipt of any fishery management plan prepared by any Council, the Secretary, within 60 days after the date on which the plan is received, shall—

(1) review the plan as provided for in subsection (c);

(2) notify in writing the Council of his approval, partial approval, or disapproval of the plan; and

(3) in the case of partial approval or disapproval of the plan, include with such notification his objections thereto and the reasons therefor, and request the Council to amend the plan within 45 days.

(b) AMENDED PLAN.—Within 30 days after receiving an amended fishery management plan requested by him pursuant to subsection (a)(3), the Secretary shall notify in writing the Council of his approval or disapproval and, in the case of disapproval, his reasons therefor.

(c) REVIEW OF PLANS.—The Secretary shall review any fishery management plan submitted to him by any Council. In carrying out such review, the Secretary shall—

(1) consider existing and projected population levels of the fish involved;

(2) evaluate the need for, and the extent

to which, the plan will contribute to the conservation and management of such fish;

(3) consider existing fishery management programs, statistics, and data relating to such fish;

(4) if the plan will apply to foreign fishing vessels beyond the fisheries zone, consult with the Secretary of State;

(5) examine and evaluate the management procedures proposed in the plan in order to determine if the regulation of the fishery concerned in the fisheries zone will be consistent on an interstate basis and consistent with the management procedures which are in effect in the territorial sea of the United States;

(6) if the plan or proposed regulations involve methods and procedures for enforcement at sea, consult with the Secretary of the department in which the Coast Guard is operating;

(7) consult with other Federal agencies, the commercial and recreational fishing industries, and, to the extent practicable, any other person having an interest in the conservation of the fish involved and in the enhancement of the marine fisheries of the United States;

(8) analyze the proposed plan in order to determine whether it is consistent with the national fisheries management standards set forth in section 302(c); and

(9) consider such other relevant factors as he deems necessary and appropriate to carry out the purposes of this Act.

(d) PREPARATION OF PLANS BY SECRETARY.—If any Council which is requested by the Secretary to prepare a fishery management plan fails to do so within such reasonable time as shall be specified by the Secretary, or if the Secretary disapproves an amended plan under subsection (b) and he determines that such a plan is needed, then the Secretary shall prepare a fishery management plan for the fishery concerned. The fishery management plan requirements set forth in section 304(b) apply with respect to any plan prepared by the Secretary.

SEC. 306. LICENSE FEES.

(a) DEFINITION.—As used in this section, the term "license fee" means any fee which is imposed on any person under any fishery management plan implemented under this Act for the privilege of fishing.

(b) COLLECTION BY SECRETARY.—All license fees imposed under any fishery management plan implemented under this Act shall be collected by the Secretary.

(c) CREDIT OF LICENSE FEES TO SEPARATE TREASURY ACCOUNT.—

(1) ESTABLISHMENT OF ACCOUNT.—There is established in the Treasury of the United States a separate account into which all license fees collected by the Secretary shall be credited.

(2) FEES COLLECTED FROM FOREIGN FISHERMEN.—Ten percent of all of the license fees collected by the Secretary pursuant to any fisheries management plan from foreign fishermen shall be credited to the account established in paragraph (1) of this subsection and shall remain available without fiscal year limitation to carry out the purposes of subsection (d).

(3) OTHER FEES.—All license fees collected by the Secretary pursuant to any fishery management plan (other than the license fees referred to in paragraph (2) of this subsection) shall be credited to the account established in paragraph (1) of this subsection and shall remain available to carry out the purposes of subsection (e).

(d) REIMBURSEMENT OF CERTAIN FOREIGN FEES IMPOSED ON UNITED STATES FISHERMEN.—

(1) FEES ELIGIBLE FOR REIMBURSEMENT.—The Secretary, under such regulations as he shall prescribe, shall reimburse any owner or operator of a United States fishing vessel for all or part of any license or permit fee which is imposed on such owner or operator by any foreign nation for the privilege of fishing in waters under the jurisdiction of that nation if—

(A) the United States recognizes the jurisdiction of that nation over fisheries conservation and management in such waters; and

(B) United States vessels have fished or carried out fishing-support activities in such waters.

(2) LIMITATION ON REIMBURSEMENT.—The Secretary shall reimburse any owner or operator of a United States fishing vessel under paragraph (1) of this subsection for the amount by which the license or permit fee imposed by the foreign nation exceeds the average license fee imposed under all fishery management plans implemented under this Act. Such average license fee shall be computed on the basis of all license fees in effect at the time such foreign fee was imposed.

(3) REIMBURSEMENT FUNDING.—Reimbursement by the Secretary under paragraph (1) of this subsection shall be made first out of the fees credited pursuant to subsection (c)(2), and thereafter out of funds which are hereby authorized to be appropriated to carry out the purposes of this subsection.

(e) FISHERY RESEARCH AND DEVELOPMENT.—All license fees collected under any fishery management plan and credited pursuant to subsection (c)(3) shall be used by the Secretary to carry out stock assessment and such other research and development which the Secretary deems appropriate with respect to the fishery resources within the geographical area of responsibility of the Council concerned.

SEC. 307. IMPLEMENTATION OF FISHERY MANAGEMENT PLANS.

(a) IN GENERAL.—After the Secretary has approved any fishery management plan prepared by any Council or prepared by him, the Secretary shall, as soon as practicable thereafter publish in the Federal Register the plan and all regulations which he proposes to promulgate in order to implement the plan. Interested persons shall be afforded a period of not less than 45 days after such publication within which to submit written data, views, or comments on the proposed regulations. Except as provided in subsection (b), the Secretary may, after the expiration of such period and after consideration of all relevant matters presented, promulgate the regulations with such modifications, if any, as he deems appropriate.

(b) OBJECTIONS TO PROPOSED REGULATIONS.—On or before the last day of a period fixed for the submission of written data, views, or comments under subsection (a), any citizen (which for purposes of this section means any individual, corporation, partnership, or other legal entity domiciled in any State) who, or any State which, may be adversely affected by the plan or the proposed regulations may file with the Secretary written objections to specific provisions of the plan or the proposed regulations, stating the grounds therefor, and may request a public hearing on such objections. If the Secretary determines that the citizen filing objections may be adversely affected and such citizen has requested a hearing, or if a State requests a hearing, the Secretary shall not promulgate the regulations except as provided for by subsection (c).

(c) HEARINGS AFTER OBJECTIONS.—As soon as practicable after the period of filing objections has expired, if the Secretary determines that any citizen of the United States filing objections may be adversely affected and such citizen has requested a hearing, or if a State requests a hearing, the Secretary shall publish in the Federal Register a notice specifying the time and place at which a public hearing shall be held, the provisions of the proposed regulations to which such objections have been filed, and such other provisions as he may designate for consideration. The Secretary thereafter shall hold a public hearing in accordance with section 553 of title 5, United States Code, for the purpose of receiving information relevant to the matters identified in the notice of hearing. If two or more citizens of the United States or States request hearings within the prescribed period and the Secretary deems such hearing appropriate, the Secretary may consolidate such hearings in the interest of time and economy. At the hearing any interested citizen or State may be heard. As soon as practicable after the completion of the hearing, the Secretary shall act upon such objections, make his determinations public (including a statement of his reasons therefor), and promulgate the regulations with such modifications, if any, as he deems appropriate.

(d) REVISION OF REGULATIONS.—The Secretary may from time to time revise any regulation promulgated pursuant to this section in accordance with the procedures prescribed in subsections (a) through (c).

(e) EMERGENCY REGULATIONS.—Notwithstanding subsections (a), (b), and (c), the Secretary may waive, if the Council concerned consents, by the affirmative vote of not less than two-thirds of the membership of the Council, to such waiver, the requirements for notice and public hearing set forth in such subsections with respect to any regulation implementing any fishery management plan if he finds (and incorporates the finding and a brief statement of the reasons therefor in the publication of the regulation) that, due to an emergency situation arising with respect to the fishery concerned, notice and hearing thereon are impracticable, unnecessary, or contrary to the public interest. Written objections to such procedure may be submitted within 30 days after the effective date of any such emergency regulation. If any such written objection is so received, the Secretary shall, not later than 40 days after such effective date, initiate the procedures set forth in subsection (a), (b), and (e). Any emergency regulation promulgated pursuant to this subsection shall remain in effect for one year after the date on which the Secretary publishes notice of proposed rulemaking required by subsection (a), unless the Secretary terminates such regulation by notice in the Federal Register at any earlier date.

SEC. 308. TEMPORARY EMERGENCY FISHERY MANAGEMENT PLANS PREPARED AND IMPLEMENTED BY THE SECRETARY WITH RESPECT TO CERTAIN FISHERIES.

(a) IN GENERAL.—Before the close of the 90-day period beginning on the date of the enactment of this Act, and without regard to sections 304 through 307 except as provided in subsection (d) of this section, the Secretary, on his own initiative or upon the request of any State, shall with respect to any coastal species or Continental Shelf species which he believes to be, as of the date of the enactment of this Act, (1) depleted, (2) in imminent danger of becoming depleted, or (3) under intensive use but unregulated because of the absence of management authority—

(A) prepare, after consultation with appropriate States and fishing industry representatives, a management plan, which shall apply within those waters which comprise the contiguous fisheries zone established by the first section of the Act of October 14, 1966, for the fishery; and

(B) promulgate such regulations as may be necessary and appropriate to implement such plan.

(b) INTERIM REPORT.—Before the close of the 45-day period beginning on the date of the enactment of this Act, the Secretary shall submit to the Congress a report which sets forth those fisheries which he will take action on pursuant to subsection (a).

(c) PLAN REQUIREMENTS.—The Secretary, in preparing any plan required by subsection (a), shall include such requirements set forth in section 304(b)(3) as he deems to be necessary and appropriate with respect to

the fishery concerned, but may not, pursuant to such plan, impose limited entry or license fees on vessels documented under the laws of the United States or otherwise registered under the laws of any State in any area of the waters comprising such contiguous fisheries zone.

(d) TREATMENT OF REGULATIONS.—Any regulation which is promulgated by the Secretary to implement any fishery management plan prepared pursuant to this section shall be treated as an emergency regulation promulgated under section 307(e); except that any such regulation shall remain in effect for 180 days after the date on which the regulation is promulgated unless the Secretary terminates such regulation at an earlier date.

SEC. 309. STATE JURISDICTION.

(a) IN GENERAL.—Except as provided in subsection (b), nothing in this Act shall be construed as extending or diminishing the jurisdicton of any State seaward of the coastline of the United States.

(b) ASSERTION OF FEDERAL JURISDICTION IN CERTAIN INSTANCES.—

(1) FINDINGS.—The Congress finds that anadromous species, certain coastal species, and certain Continental Shelf species move, during their life cycles, within waters over which more than one State has jurisdiction, and move from such waters to waters that are not within the jurisdiction of any State. The Congress further finds that, although the purpose of this Act is not to affect State jurisdiction over fish principally within waters under State jurisdiction, there may be instances where Federal regulation within such waters of any anadromous species, coastal species, or Continental Shelf species may be necessary in order to insure the effectiveness of a management plan implemented under this Act for a fishery.

(2) FINDINGS AND ACTION BY SECRETARY.—If the Secretary finds, after notice and opportunity for agency hearing, that—

(A) any fishery management plan implemented pursuant to this Act applies to any anadromous species, coastal species, or any Continental Shelf species which are to any extent, or are at any time, under the jurisdiction of any State; and

(B) such State has taken any action, or omitted to take any action, the result of which will substantially and adversely affect the carrying out of the management plan which applies to a fishery,

the Secretary shall promptly declare that such fishery within waters, other than internal waters, under jurisdiction of the State shall be subject to regulation by him pursuant to the management plan, and the Secretary, as soon as practicable thereafter, shall assume responsibility for such regulation.

(c) RESUMPTION OF STATE REGULATION.—If the Secretary, pursuant to subsection (b), assumes responsibility for the regulation of any fishery within waters under the jurisdiction of any State, the State may at any time thereafter apply to the Secretary for reinstatement of State regulation of such fishery. If the Secretary finds, after notice and opportunity for agency hearing, that the reasons for which regulation of the fishery by him was assumed no longer prevail, the Secretary shall promptly declare such fishery to be subject to regulation by the State within that State's waters pursuant to the fishery management plan.

SEC. 310. PROHIBITED ACTS.

It is unlawful for any person—

(1) to violate any provision of this Act or any regulation promulgated under this Act to carry out any fishery management plan implemented pursuant to this Act;

(2) if fishing pursuant to a permit issued under section 201(g), to violate any condition or restriction accepted by the foreign nation concerned pursuant to that section in regard to the permit;

(3) to refuse to permit any authorized representative of the Secretary, or of the Secretary of the Department in which the Coast Guard is operating, to board any fishing vessel under the control of such person if the purpose of the requested boarding is to carry out any inspection relating to the enforcement of this Act, any regulation referred to in paragraph (1), or any condition or restriction referred to in paragraph (2);

(4) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized representative of the Secretary, or of the Secretary of the Department in which the Coast Guard is operating, who is engaged in any reasonable inspection of a kind referred to in paragraph (3); or

(5) to ship, transport, purchase, offer for sale, import, export, or have in custody, possession, or control any fish taken in violation of this Act, any regulation referred to in paragraph (1), or any condition or restriction referred to in paragraph (2).

SEC. 311. CIVIL PENALTIES.

(a) ASSESSMENT OF PENALTY.—Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by paragraph (1), (2), or (5) of section 310 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(b) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings of the Secretary shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2) of title 5, United States Code.

(c) ACTION UPON FAILURE TO PAY ASSESSMENT.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) COMPROMISE OR OTHER ACTION BY SECRETARY.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

SEC. 312. CRIMINAL PENALTIES.

Any person who commits any act prohibited by paragraph (3) or (4) of section 310 shall be fined not more than $50,000; except that if such person uses a deadly or dangerous weapon in the commission of any such act, such person shall be fined not more than $100,000, or imprisoned for not more than 10 years, or both.

SEC. 313. FORFEITURE.

(a) APPLICATION FOR FORFEITURE.—Any district court of the United States shall have jurisdiction, upon application by the Secretary or the Attorney General, to order forfeited to the United States any fishing vessel, catch, cargo, fishing gear, or the monetary value thereof as determined by the court, used, intended for use, or acquired in the commission by any person of any act prohibited by section 310. In any such proceeding, such court may at any time enter such restraining orders or prohibitions or take such other actions as are in the interest of justice, including the acceptance of satisfactory performance bonds in connection with any property subject to forfeiture.

(b) SEIZURE.—If a judgment is entered under this section for the United States, the Attorney General is authorized to seize all property or other interest declared forfeited upon such terms and conditions as are in the interest of justice. All provisions of law with respect to violations of the customs laws relating to the disposition of forfeited property, the proceeds from the sale of such property, the remission or mitigation of forfeitures and the compromise of claims and the award of compensation to informants with respect to forfeitures, shall apply to forfeitures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with the provisions of this section. Such duties as are imposed upon the collector of customs or any other person with respect to seizure, forfeiture, or disposition of property under the customs laws shall be performed with respect to property used, intended for use, or acquired in the commission of any act prohibited by section 310 by such officers or other persons as may be designated for that purpose by the Secretary.

SEC. 314. ENFORCEMENT.

(a) IN GENERAL.—The provisions of this Act and any regulation promulgated under this Act to carry out any fishery management plan implemented under this Act shall be enforced by the Secretary, and the Secretary of the Department in which the Coast Guard is operating. In carrying out such enforcement, the Secretary and the Secretary of the Department in which the Coast Guard is operating may utilize by agreement, with or without reimbursement, the personnel, services, and facilities—

(1) of any other Federal agency; or

(2) of any State agency, but only for purposes of enforcement with respect to (A) any vessel in the fisheries conservation and management zone, or (B) any vessel documented under the laws of the United States or otherwise registered under the laws of any State, wherever any such vessel may be found.

(b) AUTHORITY.—Any individual authorized pursuant to subsection (a) to enforce the provisions of this Act, any regulation issued thereunder, and any condition or restriction applicable to any permit issued under section 201 may—

(1) with or without a warrant or other process, board and inspect any fishing vessel documented under the laws of the United States or otherwise registered under the laws of any State or any other fishing vessel subject to the jurisdiction of the United States, and its catch and gear, upon the waters of the fisheries conservation and management zone or upon all high seas seaward of such zone;

(2) with or without a warrant or other process, arrest any person committing in his presence or view a violation of section 310 (3) or (4);

(3) execute any warrant or other process issued by any officer or court of competent jurisdiction;

(4) seize any fishing vessel and fishing gear used in, and any fishing vessel on which occurs, the violation of any provision of this Act, any regulation promulgated to carry out any management plan implemented pursuant to this Act, or any condition or restriction

applicable to any permit issued under section 201; and

(5) seize any fish, wherever found, taken in violation of any provision of this Act or any regulation or condition or restriction referred to in paragraph (4) of this subsection.

Any fishing vessel, fishing gear, or fish seized pursuant to paragraph (4) or (5) of this subsection may be disposed of pursuant to an order of a court of competent jurisdiction, or, if perishable, in such manner as may be prescribed by the Secretary by regulation.

(c) STATE OFFICERS.—Any officer of any State, if designated pursuant to subsection (a) to function as a Federal law enforcement agent shall not be considered to be a Federal employee of the United States for the purposes of any laws administered by the Civil Service Commission.

(d) JURISDICTION OF COURTS.—The Federal district courts shall have exclusive jurisdiction over all cases arising under this Act, any regulation promulgated under the Act to carry out any fishery management plan implemented under this Act and any permit issued pursuant to section 201, and may issue any warrants or other processes as may be necessary. In the case of Guam, actions arising under such regulations may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions.

(e) PROCEDURE.—Notwithstanding the provisions of section 2464 of title 28, United States Code, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any fish seized if the process has been levied, on receiving from the respondent or claimant of the fish a bond or other surety satisfactory to the court, conditioned to deliver the fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such case. Such bond or other surety shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in the event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the fish may be sold for not less than its reasonable market value and the proceeds of such sale placed in the registry of the court pending judgment in the case.

Mrs. SULLIVAN (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD and open to amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

Mr. ECKHARDT. Mr. Chairman, reserving the right to object, and I think I shall not object, but I likewise would like to know what type of limitation the gentlewoman would put on this title.

Mrs. SULLIVAN. My understanding is that there are three amendments at the desk. I do not know what else is proposed. I would say within 20 minutes.

Mr. ECKHARDT. May we not proceed again as we did the last time? It is so much better than the previous 40-second debate.

Mrs. SULLIVAN. My time is the gentleman's time. I can stay until midnight.

Mr. ECKHARDT. We did not take any more time on the last than we did on the first.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Minnesota.

Mr. FRASER. Mr. Chairman, we only took 30 minutes on this title, which is exactly the limitation the gentlewoman had intended to offer. It would seem to me, Mr. Chairman, that it would be better if the gentlewoman would hold off until we find out what we have.

Mr. ECKHARDT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

AMENDMENT OFFERED BY MR. SLACK

Mr. SLACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SLACK: Page 55, line 21, after "credited" insert ": *Provided*, That, notwithstanding any other provision of this Act, no funds shall be available from said account except as provided in appropriation acts."

Mr. SLACK. Mr. Chairman, section 306 of the pending bill deals with the collection and use of license fees. That section would establish a separate account in the Treasury into which such fees would be paid. The section also establishes certain terms and conditions under which such fees could be used.

As presently written, Mr. Chairman, this would constitute a permanent, indefinite appropriation—backdoor spending.

I realize that House Resolution 760, the rule which makes consideration of the bill in order, carries language waiving points of order for failure to comply with the provisions of clause 5, rule XXI. That clause says:

No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.

In spite of the waiver, it seems appropriate, Mr. Chairman, to have any appropriation of funds subjected to the regular appropriation process.

I should like to point out further that section 401(a) of the Congressional Budget Act of 1974 (Public Law 93-344) states:

It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides new spending authority described in subsection (c)(2)(A) or (B) (or any amendment which provides such new spending authority), unless that bill, resolution, or amendment also provides that such new spending authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

Section 402(f) of that act says:

The Committee on Appropriations of the House of Representatives and the Senate shall study on a continuing basis those provisions of law, in effect on the effective date of this section, which provide spending authority or permanent budget authority. Each committee shall, from time to time, report to its House its recommendations for terminating or modifying such provisions.

Mr. Chairman, I have no quarrel with the fees and programs discussed in section 306. However, I do not think it would be appropriate to exclude these matters from the normal appropriation process. My amendment simply requires that the license fees which would be paid into the special account be subject to the appropriation process.

I ask for your support of my amendment.

Mrs. SULLIVAN. Mr. Chairman, will the gentleman yield?

Mr. SLACK. I yield to the gentlewoman from Missouri.

Mrs. SULLIVAN. Mr. Chairman, we have discussed this amendment with the gentleman from West Virginia (Mr. SLACK) and with the minority. We are ready to accept his amendment.

Mr. SLACK. I thank the gentlewoman.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. SLACK. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, the distinguished gentleman from West Virginia, chairman of the State, Justice, Commerce Appropriations Subcommittee which has certain funding jurisdiction in the general area, has offered an amendment to section 306 of the bill which sets up a new permanent indefinite appropriation.

I wish to call attention to section 402(f) of the Congressional Budget Act which, when fully implemented next year, charges the Appropriations Committees of the House and Senate with the responsibility of conducting continuing studies of provisions of law which provide permanent spending authority. There is no question but that this is a problem of serious proportions and I am disturbed by the provision in section 306 of this bill establishing a new permanent financing device.

In enacting the new budget control legislation, the Congress clearly recognized the pitfalls of fragmenting the regular authorization and appropriation process and preempting the ability of the Congress to reorder priorities because of the uncontrollability of the budget. In making financing decisions, we must make every effort not to take actions which mortgage future budgets. While the amount of money involved in the permanent appropriation in this bill is not large in relative terms, the financing principle, in my judgment, is undesirable.

Mr. Chairman, I support the amendment of the gentleman from West Virginia and urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. SLACK).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LOTT

Mr. LOTT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LOTT: Page 42, strike out lines 4 through 9, inclusive, and insert the following:

"(B) the head of the agency responsible for fisheries management and conservation of each State represented on the Council, except that in the case of the Alaska Marine Fisheries Council, the head of such agency in Alaska and two additional members appointed by, and serving at the pleasure of, the Governor of Alaska;"

Page 43, line 15, after "(A)," insert "(B),"

Mr. LOTT. Mr. Chairman, the Marine Fisheries Conservation Act of 1975, H.R. 200, provides for the appointment of members to each of the seven Regional Marine Fisheries Councils. Among other appointees, the bill presently lists each Council as including one member appointed by the Governor of each State represented on the Council; except that in the case of the Alaskan Marine Fisheries Council, three members shall be appointed by the Governor of Alaska.

This amendment would amend section 303(b) of the bill to require the head of the agency responsible for fisheries management and conservation of each State represented on the Council to be a member of the Council; except that in the case of the Alaska Marine Fisheries Council, the head of such agency in Alaska and two additional members appointed by the Governor of Alaska.

Essentially, all my amendment does is direct that the head of each State's fisheries management and conservation agency be included as a Council member. I feel its acceptance as a part of this measure will go a long way toward making the operation of the Regional Marine Fisheries Councils more efficient and more effective.

It has been my experience since I became familiar with the problems of fishermen and the fishing industry that the director of the State agency for fisheries management and conservation was the individual most knowledgeable with respect to the solutions to these problems. He has an acute awareness of the bounds and limitations of his area's fishery, the habits of his fishery's resources and the best methods for their preservation and propagation.

In addition to these fundamental criteria for an effective Council member, the State director would already have a working knowledge of the requirements of this very legislation to which I offer this amendment. This individual is well acquainted with his State laws as well as any Federal laws which would affect the promotion and implementation of a regional management plan for his area. His access to information and his established channels of communication with other such directors would be an invaluable service to the Council.

In short, Mr. Chairman, I am convinced that the input of the head of each State's fisheries management and conservation agency is absolutely essential to the success of the regional management conservation scheme of this legislation.

Mrs. SULLIVAN. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I yield to the gentlewoman from Missouri.

Mrs. SULLIVAN. Mr. Chairman, again we have discussed this amendment with the author and with the minority, and we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi (Mr. LOTT).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TREEN

Mr. TREEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TREEN: On page 62, line 24, strike all on line 24 through the word "(b)" on line 25.

On line 3 of page 63, strike all of Sec. 309 (b) and (c) (All matter commencing on line 3 and continuing through line 23 of page 64.)

Renumber the succeeding sections.

Mr. TREEN. Mr. Chairman, I will try to be brief because I know that the hour is late.

The effect of this amendment would be to strike the Federal preemption section, which is set forth in section 309 of the bill. The major thrust of this legislation is to establish a 200-mile zone. I do not quarrel with that at this point. But there is another aspect of this bill, which has rather far-reaching consequences, and which has not been brought to the attention of the committee. For the very first time the Federal Government, by statute, will attempt to invade the historic and traditional prerogative of the States to manage their fisheries within the 3-mile zone, that is, the territorial sea. I believe that is the first time.

That is done in section 309, which gives the Secretary of Commerce the unfettered right—that is the bottom line—to declare that a fisheries management program put in place by the State must be lifted for any particular species.

The Secretary of Commerce is the czar under the fisheries management program of this bill, because under section 305(d) the Secretary of Commerce may disapprove plans brought in by the Regional Fisheries Councils. He can send them back for amendment. When they come back again, if he does not like them he can rewrite them. And then, after that, under section 309, he can say, "I do not think the State management in this area is consistent with this plan." Actually, he has to determine that State action or inaction would "adversely and substantially" affect the Federal plan. He must use those words.

But there is no question about the fact that if he decides that it is not consistent with the Federal plan, he may, by fiat, preempt the State plan.

The coastal States have agencies to manage their fisheries and, indeed, many of the States have corresponded with me about this and have declared their support of this amendment. They see no reason for the preemption of the State plans. I have a letter from the State of Florida, Department of Natural Resources, in which Mr. Harmon W. Shields, executive director, says:

Such preemption right up to the coastline, however, is totally unwarranted and should be dropped from this legislation.

I have similar correspondence from the State of California, from the State of Alabama, and I had a call from the State of New Jersey, I might say to the gentleman from New Jersey (Mr. FORSYTHE), that they are opposed to the preemptory section. It would not hurt this legislation to take section 309 out.

The States have traditionally managed the fisheries within the 3-mile zone. I think they are competent to do that.

I know the argument will be made that this section will be rarely used and that there is lots of protection, but listen to what the committee says in its report, on page 73.

The committee is most hopeful that appropriate action will be taken by the States to cooperate with the Secretary so that Federal assertion of jurisdiction in such instances will not be necessary.

In other words, they say, "If you do it like we want to do it, we will not have to exercise this authority."

I say let the Federal Government manage the fisheries in the 197-mile belt that they have, and let the States continue to manage the 3-mile zone which has been their traditional prerogative.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. I thank the gentleman for yielding.

As I understand it, the gentleman's amendment only affects the area between the coastline outwards to 3 miles. It does not affect the area outside of it and does not have jurisdiction over it.

Mr. TREEN. That is correct.

I have been trying to preserve that which has been historic and traditional. There is no reason to use this kind of bill to invade the prerogative that the Federal Government has never gone into before.

I am not trying to change the law. I am trying to leave it as it was before this bill was written.

I might say this: The argument has been made that the Federal Government must have this authority in order to manage certain species, and yet this bill does not attempt to manage fisheries in estuarine and bay areas. Certainly, if a fishery can be managed without going into the bays and the estuarine areas, it can be managed without going into the 3-mile zone.

Mr. STUDDS. Mr. Chairman, I rise briefly in opposition to the amendment.

Mr. Chairman, section 309 of H.R. 200 provides a very limited authority in the Secretary of Commerce to temporarily impose a Federal fisheries management plan on a managed species of fish within the territorial sea of the United States where the coastal State would otherwise exercise exclusive management authority.

At this time, there is no authority in either the States or the Federal Government to engage in fisheries management programs beyond the territorial sea. H.R. 200 establishes that authority in the Federal Government beyond the territorial sea and preserves the existing authority of States within the 3-mile territorial sea except under the very limited preemption provision of section 309. This section of the bill is necessary to insure that fisheries under a management plan will be managed throughout their range.

Most coastal species are found off the shores of at least two or more adjacent coastal States and are found both within and beyond the 3-mile territorial sea limit.

If a given fishery stock requires management and a plan is adopted for that species both the council preparing the plan and the Secretary will, of necessity, examine relevant State regulations dealing with that species. The council could recommend that the Federal management plan override inconsistent State regulations which both substantially and adversely impact upon the effectiveness of the Federal plan, but only the Secretary may make the decision to take this step. Bear in mind that this decision by the Secretary can only be made after a full hearing under the Administrative Procedures Act, and that if the Secretary makes the requisite findings, the preemption of the State regulations can only continue so long as the condition which prompted the finding continues.

Thus, if adjacent coastal States off whose shores the managed stock of fish is caught have conflicting regulations, and it is this conflict that has brought about the Federal preemption, once the conflict is resolved the Federal preemption will terminate. It is our understanding that it is the actual and potential conflict between State regulations that has brought about the need for this provision.

Three interstate compacts have been in existence for many years covering the Atlantic, gulf, and Pacific coastal States. The Commissions established pursuant to these compacts have not been successful in resolving interstate disputes over fishery regulation. An effort is underway now to secure the adoption in all coastal States of a uniform State fisheries management act, but this has not yet been accomplished. While the instances of Federal preemption will undoubtedly be few and can only occur on a species-by-species basis, as opposed to a blanket preemption, there is clearly a need for this provision to insure that the objectives of the legislation are realized. This is basically a conservation bill.

I realize that a number of States have complained about this provision, particularly the State of Florida. It is worth noting, however, that while Florida is complaining about Federal preemption in this legislation, it is actively seeking legislation in the House to resolve an interstate conflict over the taking of spiny lobsters, legislation which the Merchant Marine and Fisheries Committee has already held hearings on, H.R. 2473. Very simply, the States cannot have it both ways. I urge the defeat of this amendment.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, just so the record is clear, the statement was made that the Federal Government has never invaded the 3-mile area of States. I believe the record should show that with respect to endangered species legislation, we have invaded the 3-mile area of the States, perhaps not too effectively, but we have attempted to do that.

We are in the process now of reverting some of that jurisdiction back to some of the States.

Under the Marine Mammal Act we are doing exactly the same thing. There again we are attempting to revert some of that jurisdiction to the States under signed cooperative agreements.

So we are not pioneering in some new area here. I would state that this legislation could only be effective with the full cooperation of the States, for instance, with the full cooperation of the people of the State of Louisiana.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. TREEN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. TREEN. Mr. Chairman, on that I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. VAN DEERLIN

Mr. VAN DEERLIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VAN DEERLIN: On page 72, after line 25, insert the following:

"(f) If he deems it to be in the national interest, the President may suspend any provision of this section."

Mr. VAN DEERLIN. Mr. Chairman, I offer this amendment as one who feels his back is to the wall, he is in the shadow of the goalposts, and he seeks to retrieve something. Resigned to its passage, I am trying to improve the bill.

I hope that I will especially have the attention of my colleagues on the west side of the aisle. In case the Members were not listening when the amendment was read, I will direct their attention to the middle of page 69 in the bill. There they will find a section which continues to the bottom of page 72, where my amendment falls.

This section deals with enforcement procedures to be established under this legislation. I would ask the Members, if they have not looked at this closely, to note that it deals with the direction and activity of Coast Guard vessels to a distance of 200 miles from our shores. It deals with the matter of arrests, and issuance of warrants for arrest of persons of any flag violating this law, and it deals with the seizures of ships, of fishing gear, and of the catch aboard fishing vessels. It deals with the disposition of vessels which have been thus seized.

Under the Constitution, it is the President of the United States who is charged with leadership in matters of foreign policy.

This section, it seems to me, dealing with enforcement, starts down a very dangerous trail, one in which the President should be given some hand.

We have not been uniformly successful, we in Congress, in dealing with some foreign policy issues—whether the matter of Rhodesian chrome, or the Panama Canal, or Soviet emigration, or Turkish aid and keeping the peace with our allies in NATO.

Let us not increase our stumbling by setting up here an enforcement procedure which goes far beyond anything that has been proposed or executed except by piratical nations to the south. Let us move at least with discretion. Let us make the President a party to the execution and the enforcement of this law.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. VAN DEERLIN. I will be happy to yield.

Mr. LEGGETT. Mr. Chairman, since this is the last time for "Casey at the Bat," I want to say this: The gentleman made reference to enforcement provisions that only piratical nations to the south enforce or are claiming.

The language in this section of the legislation is exactly what has been the law in the United States with respect to the 12-mile limit since 1966, and likewise, with respect to the endangered species as well as with respect to other things.

Mr. VAN DEERLIN. Does not the gentleman have full confidence in the President of the United States, as do I?

Let us give him the opportunity, where he thinks it is in the national interest, as this amendment provides, to stay provisions of the enforcement section.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. VAN DEERLIN).

The question was taken; and on a division (demanded by Mr. VAN DEERLIN) there were—ayes 20, noes 25.

Mr. VAN DEERLIN. Mr. Chairman, it occurred to me that that does not add up to 100.

I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The CHAIRMAN. The amendment is not agreed to. The gentleman from California (Mr. VAN DEERLIN) makes a point of order that a quorum is not present.

Mr. VAN DEERLIN. And, Mr. Chairman, I demand a recorded vote in pursuance of that request.

The CHAIRMAN. Does the gentleman make a point of order that a quorum is not present?

Mr. VAN DEERLIN. Mr. Chairman, I do not want a quorum call.

The CHAIRMAN. Pending a rollcall?

Mr. VAN DEERLIN. That is what I want, a rollcall.

Mr. FRASER. Mr. Chairman, pending the request for a rollcall, I make a point of order that a quorum is not present.

The CHAIRMAN. Obviously, a quorum is not present.

POINT OF ORDER

Mr. STUDDS. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. STUDDS. Mr. Chairman, I make the point of order that the Chair has already ruled that the amendment has been rejected.

The CHAIRMAN. The gentleman is right in seeking recognition to make a

point of order that a quorum is not present.

Evidently a quorum is not present. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 611]

Abdnor	Ford, Tenn.	Mottl
Abzug	Frenzel	Murtha
Adams	Frey	Nix
Andrews, N.C.	Fuqua	Nolan
Andrews, N. Dak.	Gaydos	Passman
	Gibbons	Patman, Tex.
Ashbrook	Goldwater	Patterson, Calif.
Badillo	Green	
Barrett	Guyer	Pettis
Bedell	Hall	Peyser
Bergland	Harsha	Poage
Bevill	Hayes, Ind.	Price
Bonker	Hays, Ohio	Randall
Broomfield	Hébert	Riegle
Brown, Calif.	Heinz	Risenhoover
Burke, Fla.	Helstoski	Rousselot
Burton, Phillip	Henderson	Roybal
Carney	Hightower	Ryan
Carter	Hinshaw	St Germain
Chappell	Holland	Santini
Chisholm	Howe	Shipley
Clawson, Del	Jones, Ala.	Shuster
Clay	Kastenmeier	Sisk
Conyers	Ketchum	Steelman
Corman	Koch	Steiger, Wis.
Cotter	Landrum	Stephens
Daniels, N.J.	Latta	Symms
Danielson	Lujan	Taylor, N.C.
Delaney	McCollister	Teague
Dent	McDade	Thompson
Devine	McDonald	Traxler
Dickinson	McEwen	Udall
Diggs	Madigan	Ullman
Eshleman	Martin	Vanik
Evans, Colo.	Mathis	Walsh
Evins, Tenn.	Metcalfe	Waxman
Fary	Meyner	Wiggins
Findley	Milford	Wilson, C. H.
Flynt	Moorhead, Calif.	Wilson, Tex.
Foley		Yatron
Ford, Mich.	Moss	Zeferetti

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SMITH of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 200), and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 313 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. At the time of the quorum call, the Chair had announced the result of a division vote.

PARLIAMENTARY INQUIRY

Mr. LEGGETT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. LEGGETT. Mr. Chairman, is the situation now such that the division vote has been had which struck down the Van Deerlin amendment that gutted the bill and now we are ready for a recorded vote?

The CHAIRMAN. That is not a proper parliamentary inquiry.

RECORDED VOTE

Mr. VAN DEERLIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 128, noes 196, not voting 109, as follows:

[Roll No. 612]

AYES—128

Anderson, Calif.	Hawkins	Obey
	Hayes, Ind.	O'Brien
Anderson, Ill.	Hechler, W. Va.	Pepper
Annunzio	Holtzman	Perkins
Ashley	Horton	Pickle
Badillo	Jacobs	Preyer
Baldus	Jarman	Quie
Beard, Tenn.	Johnson, Pa.	Railsback
Bennett	Jones, Okla.	Rees
Biester	Jones, Tenn.	Regula
Bingham	Jordan	Reuss
Brademas	Karth	Roberts
Breckinridge	Kastenmeier	Rostenkowski
Brooks	Kazen	Runnels
Broyhill	Keys	Scheuer
Buchanan	Krueger	Schroeder
Burgener	Landrum	Sebelius
Burleson, Tex.	Levitas	Seiberling
Casey	Lloyd, Calif.	Sharp
Cederberg	Lloyd, Tenn.	Shriver
Conable	Long, La.	Simon
Cornell	McClory	Spellman
Davis	McCloskey	Staggers
de la Garza	McDade	Stanton, J. William
Derwinski	McEwen	
Duncan, Tenn.	McHugh	Stanton, James V.
Eckhardt	Mahon	
Erlenborn	Mann	Stephens
Fascell	Matsunaga	Stratton
Fisher	Melcher	Symington
Flowers	Mikva	Thone
Fraser	Mills	Treen
Frenzel	Mink	Van Deerlin
Gibbons	Mitchell, N.Y.	Whalen
Gilman	Mollohan	White
Gonzalez	Moorhead, Pa.	Whitten
Gradison	Morgan	Wilson, Bob
Gude	Mosher	Winn
Hamilton	Murphy, Ill.	Wolff
Hammer-schmidt	Myers, Pa.	Wright
	Natcher	Wydler
Hannaford	Nedzi	Yates
Harris	Nichols	Young, Tex.
Hastings	Nowak	Zablocki

NOES—196

Addabbo	Drinan	Leggett
Alexander	Duncan, Oreg.	Lehman
Ambro	du Pont	Lent
Andrews, N.C.	Early	Litton
Archer	Edgar	Long, Md.
Armstrong	Edwards, Ala.	Lott
Aspin	Edwards, Calif.	McCormack
AuCoin	Eilberg	McFall
Bafalis	Emery	McKay
Baucus	English	Macdonald
Bauman	Evans, Ind.	Madden
Beard, R.I.	Fish	Maguire
Bell	Fithian	Mathis
Biaggi	Flood	Mazzoli
Blanchard	Florio	Meeds
Blouin	Foley	Mezvinsky
Boggs	Forsythe	Michel
Boland	Fountain	Miller, Calif.
Bolling	Giaimo	Miller, Ohio
Bonker	Ginn	Mineta
Bowen	Goodling	Minish
Breaux	Grassley	Mitchell, Md.
Brinkley	Hagedorn	Moakley
Brodhead	Haley	Moffett
Brown, Mich.	Hall	Montgomery
Brown, Ohio	Hanley	Moore
Burke, Calif.	Hansen	Murphy, N.Y.
Burke, Mass.	Harkin	Myers, Ind.
Burlison, Mo.	Harrington	Oberstar
Burton, John	Heckler, Mass.	O'Hara
Burton, Phillip	Hefner	O'Neill
Byron	Hicks	Ottinger
Carr	Hillis	Patten, N.J.
Clancy	Holland	Pattison, N.Y.
Clausen, Don H.	Holt	Pike
	Howard	Pressler
Cleveland	Hubbard	Pritchard
Cochran	Hughes	Quillen
Cohen	Hungate	Rangel
Collins, Ill.	Hutchinson	Rhodes
Collins, Tex.	Hyde	Richmond
Conte	Ichord	Rinaldo
Coughlin	Jeffords	Robinson
Crane	Jenrette	Rodino
D'Amours	Johnson, Calif.	Roe
Daniel, Dan	Johnson, Colo.	Rogers
Daniel, R. W.	Jones, N.C.	Roncalio
Dellums	Kasten	Rooney
Derrick	Kelly	Rose
Diggs	Kemp	Rosenthal
Dingell	Kindness	Roush
Dodd	Krebs	Ruppe
Downey, N.Y.	LaFalce	Russo
Downing, Va.	Lagomarsino	Sarasin
Sarbanes	Stark	Vander Jagt
Satterfield	Steed	Vander Veen
Schneebeli	Steiger, Ariz.	Vigorito
Schulze	Steiger, Wis.	Waggonner
Shuster	Stokes	Wampler
Sikes	Stuckey	Weaver
Slack	Studds	Whitehurst
Smith, Iowa	Sullivan	Wylie
Smith, Nebr.	Talcott	Young, Alaska
Snyder	Taylor, Mo.	Young, Fla.
Solarz	Thornton	Young, Ga.
Spence	Tsongas	

NOT VOTING—109

Abdnor	Ford, Mich.	Passman
Abzug	Ford, Tenn.	Patman, Tex.
Adams	Frey	Patterson, Calif.
Andrews, N. Dak.	Fuqua	Pettis
	Gaydos	Peyser
Ashbrook	Goldwater	Poage
Barrett	Green	Price
Bedell	Guyer	Randall
Bergland	Harsha	Riegle
Bevill	Hays, Ohio	Risenhoover
Broomfield	Hébert	Rousselot
Brown, Calif.	Heinz	Roybal
Burke, Fla.	Helstoski	Ryan
Butler	Henderson	St Germain
Carney	Hightower	Santini
Carter	Hinshaw	Shipley
Chappell	Howe	Sisk
Chisholm	Jones, Ala.	Skubitz
Clawson, Del	Ketchum	Steelman
Clay	Koch	Symms
Conlan	Latta	Taylor, N.C.
Conyers	Lujan	Teague
Corman	McCollister	Thompson
Cotter	McDonald	Traxler
Daniels, N.J.	McKinney	Udall
Danielson	Madigan	Ullman
Delaney	Martin	Vanik
Dent	Metcalfe	Walsh
Devine	Meyner	Waxman
Dickinson	Milford	Wiggins
Esch	Moorhead, Calif.	Wilson, C. H.
Eshleman		Wilson, Tex.
Evans, Colo.	Moss	Wirth
Evins, Tenn.	Mottl	Yatron
Fary	Murtha	Zeferetti
Fenwick	Neal	
Findley	Nix	
Flynt	Nolan	

The Clerk announced the following pairs.

Messrs. YOUNG of Alaska and KEMP changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mrs. SULLIVAN. Mr. Chairman, I ask unanimous consent to limit debate on this last title, title III, and all amendments to this title to 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

Mrs. SULLIVAN. Mr. Chairman, may I just add this: On the next title we have one amendment, at the end of the bill. At that time I will again ask for a limitation of 10 minutes on the one amendment to be offered.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: On page 65, on line 16 strike the semicolon and add the following: "unless such refusal is pursuant to a right protected by international law;"

Mr. ECKHARDT. Mr. Chairman, if you would mandate an act of war to protect a mess of haddock, then you should vote against my amendment.

My amendment in no way changes the mandate with respect to fisheries within the 200-mile limit. It only affects the boarding of a vessel where that vessel

contends that it is acting under the protection of international law and is so protected.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. Yes, I yield to the gentleman from California.

Mr. LEGGETT. Do I understand that the intent of the gentleman's amendment is to condition actions in this bill on no violation of international law?

Mr. ECKHARDT. The intent of this amendment is to say that when a vessel is acting under a right extended by international law, it may refuse to be boarded.

All I am attempting to do is to prevent the same kind of thing I was attempting to do with the amendment I had on the Sinai bill the other day.

I just do not want an act of war to be committed and mandated in order to protect a bunch of haddock. That is the point.

Mr. LEGGETT. If the gentleman will yield further, without answering the gentleman's allegations with respect to the value of haddock, I think we all want to respect international law.

With that in mind, we will accept the gentleman's amendment on this side.

Mr. RUPPE. Mr. Chairman, if the gentleman will yield, we accept it on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The amendment was agreed to.

The CHAIRMAN. There being no further amendments to title III, the Clerk will read:

The Clerk read as follows:

TITLE IV—AMENDMENTS TO OTHER LAWS RELATING TO THE FISHERIES AND MISCELLANEOUS PROVISIONS

SEC. 401. FISHERMEN'S PROTECTIVE ACT AMENDMENTS.

(a) SEIZURE PROVISION.—Section 2 of the Fishermen's Protective Act of 1967 (68 Stat. 883; 22 U.S.C. 1972) is amended to read as follows:

"SEC. 2. In any case where—

"(1) any vessel of the United States is seized by a foreign country on the basis of rights or claims in territorial waters or the high seas which are not recognized by the United States; or

"(2) any vessel of the United States is seized by a foreign country while such vessel is engaged in fishing in any area of the high seas (and the rights or claims to fisheries conservation and management jurisdiction in such area by such country are recognized by the United States) for a specific stock of fish (including, but not limited to, tuna and any other highly migratory species of fish), and vessels of the United States have previously fished in such area for such stock, and there is no dispute of material facts with respect to the location or activity of such vessel at the time of such seizure, the Secretary of State shall as soon as practicable take action to attend to the welfare of such vessel and its crew while it is held by such country to secure the release of such vessel and crew, and to immediately ascertain the amount of any fine, license, fee, registration fee, or any other direct charge which may be reimbursable under section 3(a) of this Act,".

(b) REIMBURSEMENT PROVISION.—

(1) Section 3(a) of such Act of 1967 (22 U.S.C. 1973(a)) is amended by inserting immediately before the last sentence thereof the following new sentence: "For purposes of this section, the term 'other direct charge' means any levy, however characterized or computed (including, but not limited to, computation based on the value of a vessel or the value of fish or other property on board a vessel), which is imposed in addition to any fine, license fee, or registration fee.".

(2) The amendment made by paragraph (1) of this subsection shall apply with respect to seizures of vessels of the United States occurring on or after December 31, 1974.

SEC. 402. AMENDMENTS TO THE ACT OF MAY 20, 1964.

(a) AMENDMENTS.—The Act of May 20, 1964 (78 Stat. 194–196; 16 U.S.C. 1081–1086) is amended—

(1) by amending the first section to read as follows:

"That (a) it is unlawful for any vessel, except a vessel of the United States, or for any master or other person in charge of such a vessel, to engage in fishing—

"(1) within the territorial waters of the United States, its territories and possessions, and the Commonwealth of Puerto Rico;

"(2) within the fisheries conservation and management zone established by title I of the Marine Fisheries Conservation Act of 1975 unless such fishing is authorized under a permit issued pursuant to section 201 of such Act;

"(3) for any anadromous species beyond such fisheries conservation and management zone for which a fishery management plan has been implemented under title III of such Act of 1975 unless such fishing is authorized under a permit issued pursuant to section 201 of such Act of 1975; and

"(4) for any Continental Shelf fishery resource.

"(b) Notwithstanding any other provision of law, the Secretary of Commerce, with the concurrence of the Secretary of State, may permit a vessel, other than a vessel of the United States, owned or operated by an international organization of which the United States is a member, to engage in fishery research within the territorial waters of the United States or within the fisheries conservation and management zone established by title I of the Marine Fisheries Conservation Act of 1975 or for Continental Shelf fisheries resources and to land its catch in a port of the United States in accordance with such conditions as the Secretary may prescribe whenever they determine such action is in the national interest."; and

(2) by amending section 5(c) by striking out "'fisheries'" and inserting in lieu thereof "'fishing'".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect July 1, 1976.

SEC. 4093. ATLANTIC TUNAS CONVENTION ACT AMENDMENT.

(a) AMENDMENT.—Section 2(4) of the Atlantic Tunas Convention Act of 1975 (Public Law 94–70) is amended by striking out "the entire zone established by the United States under the Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091–1094)," and inserting in lieu thereof "the fisheries conservation and management zone established by title I of the Marine Fisheries Conservation Act of 1975,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect July 1, 1976.

SEC. 404. MARINE MAMMAL PROTECTION ACT AMENDMENT.

(a) AMENDMENT.—Section 3(15)(B) of the Marine Mammal Protection Act of 1972 (86 Stat. 1029; 16 U.S.C. 1362(15)(B)) is amended by striking out "the fisheries zone established pursuant to the Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091–1094)." and inserting in lieu thereof "the fisheries conservation and management zone established by title I of the Marine Fisheries Conservation Act of 1975.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect July 1, 1976.

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act (other than section 36(d)(3)).

SEC. 406. SEVERABILITY.

The provisions of this Act shall be severable and if any part of the Act is declared unconstitutional or the applicability thereof is held invalid, the constitutionality of the remainder and the applicability thereof shall not be affected thereby.

Amend the title so as to read: "A bill to provide for the conservation and management of the fisheries, and for other purposes.".

Mrs. SULLIVAN (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

Mrs. SULLIVAN. Mr. Chairman, I move that all debate on the pending amendment to title IV and all amendments thereto be limited to 10 minutes.

The CHAIRMAN. The Chair would prefer to wait until the amendment has been offered.

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: On page 77 at line 18 add a new section as follows:

"SEC. 407. The United States hereby consents to the jurisdiction of the International Court of Justice with respect to any claim or controversy arising as a result of the enactment or the implementation of this Act.

The CHAIRMAN. Does the gentlewoman from Missouri (Mrs. SULLIVAN) move to limit debate on this title and all amendments thereto to 10 minutes?

Mrs. SULLIVAN. I do, Mr. Chairman.

The CHAIRMAN. The question is on the motion offered by the gentlewoman from Missouri (Mr. SULLIVAN).

The motion was agreed to.

Mr. McCLOSKEY. Mr. Chairman, may I ask if I will have 5 minutes to explain my amendment?

The CHAIRMAN. The gentleman from California is correct, he will have 5 minutes.

Mr. McCLOSKEY. Mr. Chairman, I retain a hope that the Committee will accept this amendment in the same spirit that it accepted the last amendment.

The amendment only does one thing, it agrees that any dispute that arises out of the passage of this bill will be subject to decision by the International Court of Justice.

Let me say why I think it is extremely important when this House enacts this bill, as it will, that this amendment be added.

First, the proponents of the bill have urged today that this bill is in accord with international law or at least it is not in violation of international law.

Second, that it is not in violation of any of our treaties. The opponents objected to that. But regardless of who is right or wrong on that issue the proponents also concede that we seek the same goal, an international treaty which recognizes each nation having a 200-mile fishing zone. Both sides to this debate agree that we must continue to seek international treaties to protect those of our fisheries which are not protected within the 200 miles.

You will note that within the bill the proponents of the bill have a provision that it is only an interim measure, we are extending this on an interim basis the jurisdiction of the United States over certain ocean areas. And not are we only doing that on an interim basis but that if a treaty is adopted that that treaty will supersede this bill which we enact today.

The proponents of the bill are rightfully concerned that if we do not adopt a treaty by 1977, if a treaty is not adopted and ratified until 1980, there might not be any fishing to protect.

So that there is this agreement between both proponents and opponents of this bill that we seek both international law and respect for international law along with the interim extension of our jurisdiction to protect it in the interim.

Going back to the history of the protection of fisheries, we must look at the recent ICNAF agreement that was reached on September 28, which authorizes a 23 percent decrease in the tonnage. Look back to 1958 when the United States was a signatory to the four international conventions. We have taken the lead in the protection of whales and of all creatures of the sea and in seeking international agreement and international law.

In 1958 we and the Russians signed the Convention of the High Seas. We agreed that the term "high seas" meant all parts of the sea, not including the territorial seas, and with the ocean open to all nations where feasible.

Now when we go to the 200-mile zone, conflicts will develop between the Russians and us with respect to the action we have taken.

But also look at the treaty on Fish and Conservation of Living Resources Convention. There in 1958 we agreed that in order to settle disputes, nations that are concerned with the conservation of fisheries would refer those disputes to five representatives for decision by judicial action.

I think it is entirely consistent with the motivation of the proponents of this bill and with the desire and the historic leadership of the United States to have the international law be respected and to recognize that only by international treaty and by judicial decision can we assure protection for all of the endangered species of the seas and the protection of our fishing zones, and that is through judicial decisions by the International Court of Justice.

Mr. Chairman, I submit the amendment should be agreed to on that basis.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, I rise in opposition to the amendment. I agree with the gentleman's contention that international disputes should be decided by negotiation and by justice rather than by force of arms and the U.S. Coast Guard; but to put a provision in this bill that every single dispute will be subject to the International Court, a court which has decided, I think, a total of three cases in the last 10 years, means we are going to be on a docket for a long, long period of time before we solve many of these problems. Many of the problems can be solved by negotiation, many by bilaterals, many by treaty, many by arbitration. Certainly it would also cover the situation between citizens of the United States and citizens claiming against the Government. Why should the International Court be in on that at all?

Mr. Chairman, particularly I want to thank and compliment our staff who drafted this bill.

Ernie Carrado, chief counsel, and particularly the bill authors, Ned Everett and Dick Sheroud.

They were magnificent, as were the members of my subcommittee; members of the full committee and the committee chairman, LEE SULLIVAN.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Chairman, I rise to oppose the amendment offered by the gentleman from California. I think many of us would be inclined to go along, but when we think of turning over arbitrarily all of these decisions to the World Court at this point and at this time in the bill, I do not think it would be a wise move. This is one of the purposes of the law of the seas—to set up a dispute-settlement process. I think that is something that has got to be done, but for us to arbitrarily say we must do this is not wise. We can do this. We can turn to the World Court anytime we want to, particularly if the other party is willing to go. But I think for us to write it in that we must go to the World Court at this time would be a mistake.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. Mr. Chairman, the amendment offered by the gentleman from California raises grave and highly serious questions concerning the international policy of this Nation. Whether or not we would wish to submit ourselves to the International Court of Justice, there are highly divergent and highly emotional opinions in the House on this subject. I suspect my own might be closer to that of the gentleman from California than many others.

However, this kind of overriding policy matter should not be raised in this bill at this time.

Mr. Chairman, I urge defeat of the amendment offered by the gentleman from California.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from California (Mr. BOB WILSON).

Mr. BOB WILSON. Mr. Chairman, I am opposed to this bill. If passed, it would hinder, rather than help our fishing industry and could destroy any chance to get the rule of law applied to the seas of the world.

The United States has been engaged for a number of years in the Law of the Sea Conference, trying to work out an equitable solution between the countries of the world that border on the sea and use them to contribute to their national food supplies.

Until now, the United States has always maintained a position against unilaterally—and I repeat, unilaterally—imposing a 200-mile limit, and has vigorously protested actions by other sea-bordering countries in setting up their own 200-mile limits. If we go against our past record and impose such a limit, other countries will be encouraged to follow suit. The result would be chaos for the fishing industry of the United States.

For example, our tuna industry catches only about 10 percent of its total tuna take within 200 miles of our own shores, but takes almost 90 percent within 200 miles of other shores. If we impose a 200-mile limit and other countries follow our example, it would virtually destroy the tuna industry.

The tuna appears around the world. Albacore migrate from the coast of Japan to the west coast of North America each year. Bigeye tuna migrate across the Pacific, southern bluefin tuna are distributed from the South Atlantic through the Pacific and Indian Oceans, northern bluefins move from the east coast of the United States to northwestern Europe and down to Brazil.

All species of tuna move around constantly, following food supplies, and it is obvious that as a species, the tuna has no home. It ranges over vast expanses of the world's oceans, and appears at a wide range of latitudes. If we are to depend on the seas for more food, we must manage this renewable crop with care. A series of jealously guarded 200-mile zones would make any intelligent management program virtually impossible, and would put our tuna industry out of business.

We are already penalizing our tuna fishermen enough by enforcing an international agreement which the other signatories are not. By enforcing a quota system on the taking of yellowfin tuna, we are telling our fishermen that, while other countries can either catch yellowfin or not as they choose, our fishermen cannot. This is an example of a grossly unfair situation being allowed to exist by our Government.

And what of other nations that choose to violate this proposed 200-mile limit? Are we, by our actions, to raise the specter of confrontations on the high seas between our patrol boats and the fishing fleets of other countries. We have already seen what can happen if such confrontations do occur. In resisting the claims of other countries to a 200-mile limit, our fishermen have been harassed, imprisoned, beaten, their boats seized, their cargoes confiscated and severe fines levied.

This is a bad bill. It would detrimentally affect our fishing industry rather than promote its interests. It

would go against the principles of law and would cast the United States in the role of vigilantes, taking the law into our own hands. It would virtually force international confrontation on the high seas. It would encourage other sea-bordering countries—some of which are already considering imposing their own 200-mile limits—to follow our example. It would strain already delicate relations between our country and the U.S.S.R. and could badly damage our relations with Japan.

Instead of promoting conservation of our sea resources, as it claims it will do, it will eliminate any incentive on the part of the fishing countries of the world to voluntarily engage in such conservation, as the seas beyond 200 miles will be considered open and the fish free for the taking.

What is needed is international agreement and cooperation. We are trying to get some rule of law applied to the seas, that all sea-using nations can agree to and abide by. A law that will work for the benefit of all; that would allow for the intelligent harvesting of sea resources; that will promote international cooperation.

What we do not need is a heavyhanded, unilateral imposition of a 200-mile limit. I suggest that we continue to pursue a mutually agreeable international pact designed to protect and preserve our fishery resources, while allowing our fishermen the opportunity to pursue their trades. I urge my colleagues on both sides of the aisle to vote "No" to a bill that would be of limited use and could jeopardize our international reputation.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from New York.

Mr. BINGHAM. I appreciate the gentleman's yielding.

I just want to say that I think the sponsors of this bill have done a remarkable job in bringing forth one of the worst bills that have been brought before the House in this session. When we have people like the gentleman from California (Mr. McCLOSKEY) the gentleman from California (Mr. BOB WILSON) the gentleman from New York (Mr. STRATTON) and the gentleman from Minnesota (Mr. FRASER) against a bill, they have really done something.

Mr. O'NEILL. Mr. Chairman, I rise in support of H.R. 200, the Marine Fisheries Conservation Act of 1975. This measure is the result of long, thoughtful, and thorough deliberations by the Committee on Merchant Marine and Fisheries. Under the able leadership of the gentlewoman from Missouri and the gentleman from California (Mr. LEGGETT) that committee has formulated a sensible policy to meet a sensitive problem. I want to pay special tribute to my colleague from Massachusetts (Mr. STUDDS) who has, from the day he came to Congress, been pressing for a revision of U.S. fisheries policy.

H.R. 200, which enjoys the virtually unanimous support of the members of the Committee on Merchant Marine and Fisheries, is in its most controversial aspect, a legitimate attempt to meet what is hopefully a short-term problem. We all would have preferred a consensus at the Law of the Sea Conference to a legislative initiative extending the exclusive fisheries zone to 200 miles. But Congress could not stand back and watch the depletion of our fisheries resources forever. When it became clear that the latest session of the Law of the Sea Conference would not successfully contend with the problems in this area, it became incumbent on Congress to act expeditiously.

The committee was well aware of the situation. Based on its long record of expertise in these matters, it was able to report H.R. 200 soon after the latest session of the Law of the Sea Conference failed to reach an agreement. Should the next session of the Conference meet with more success and an agreement be adopted by this Nation, it would supersede H.R. 200. In the interim, this bill will protect against the depletion of our stocks.

However, H.R. 200 is not just a stopgap measure. It promotes a national policy of marine conservation and planning keyed to regional interests. The seven regional councils to be established under this legislation will, under supervision by the Secretary of Commerce, promulgate management plans to conserve and protect fisheries.

I urge my colleagues to join with me in voting for H.R. 200.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. McCLOSKEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments? If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SMITH of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 200) to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes, pursuant to House Resolution 760, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 208, nays 101, answered "present" 1, not voting 123, as follows:

[Roll No. 613]

YEAS—208

Addabbo	Goodling	Nedzi
Ambro	Grassley	Nowak
Andrews, N.C.	Hagedorn	Oberstar
Archer	Hammer-schmidt	O'Hara
Armstrong	Hanley	O'Neill
Aspin	Hansen	Ottinger
AuCoin	Harrington	Patten, N.J.
Bafalis	Hechler, W. Va.	Pattison, N.Y.
Baucus	Heckler, Mass.	Perkins
Bauman	Hefner	Pickle
Beard, R.I.	Hicks	Pike
Biaggi	Hillis	Pressler
Blanchard	Holland	Pritchard
Boggs	Holt	Quillen
Boland	Howard	Rhodes
Bolling	Hubbard	Richmond
Bonker	Hughes	Rinaldo
Bowen	Hutchinson	Robinson
Breaux	Hyde	Rodino
Brinkley	Ichord	Roe
Brodhead	Jarman	Rogers
Brown, Mich.	Jeffords	Roncalio
Brown, Ohio	Jenrette	Rooney
Broyhill	Johnson, Calif.	Rose
Burke, Mass.	Johnson, Colo.	Rosenthal
Burleson, Tex.	Johnson, Pa.	Roush
Burlison, Mo.	Jones, N.C.	Runnels
Burton, John	Jones, Tenn.	Ruppe
Byron	Kasten	Russo
Carr	Kelly	Sarasin
Casey	Kemp	Sarbanes
Cederberg	Keys	Satterfield
Clausen, Don H.	Kindness	Schneebeli
Cleveland	Krebs	Schulze
Cochran	Lagomarsino	Sebelius
Cohen	Landrum	Shriver
Collins, Ill.	Leggett	Shuster
Collins, Tex.	Lehman	Sikes
Conte	Lent	Slack
Cornell	Levitas	Snyder
Coughlin	Litton	Solarz
Crane	Lloyd, Tenn.	Spence
D'Amours	Long, La.	Staggers
Daniel, Dan	Lott	Stark
Davis	McCormack	Steiger, Ariz.
Dingell	McDade	Steiger, Wis.
Dodd	McFall	Stephens
Downey, N.Y.	McKay	Stokes
Downing, Va.	McKinney	Stuckey
Drinan	Macdonald	Studds
Duncan, Oreg.	Maguire	Sullivan
du Pont	Mathis	Symington
Early	Mazzoli	Talcott
Edgar	Meeds	Taylor, Mo.
Edwards, Ala.	Melcher	Thone
Edwards, Calif.	Mezvinsky	Treen
Eilberg	Michel	Tsongas
Emery	Miller, Calif.	Vander Jagt
English	Miller, Ohio	Vander Veen
Evans, Ind.	Mineta	Waggonner
Fish	Minish	Wampler
Fithian	Mitchell, Md.	Weaver
Flood	Mitchell, N.Y.	Whitehurst
Florio	Moakley	Wirth
Flowers	Moffett	Wolff
Foley	Montgomery	Wydler
Forsythe	Moore	Wylie
Fountain	Moorhead, Pa.	Young, Alaska
Ginn	Myers, Ind.	Young, Fla.
		Young, Ga.

NAYS—101

Alexander	Biester	Conable
Anderson, Calif.	Bingham	Daniel, R. W.
	Blouin	de la Garza
Anderson, Ill.	Brademas	Dellums
Annunzio	Breckinridge	Derrick
Ashley	Brooks	Diggs
Badillo	Buchanan	Eckhardt
Baldus	Burgener	Erlenborn
Beard, Tenn.	Burke, Calif.	Fascell
Bennett	Burton, Phillip	Fisher

Fraser	McCloskey	Roberts
Frenzel	McEwen	Rostenkowski
Gibbons	McHugh	Scheuer
Gilman	Mahon	Schroeder
Gonzalez	Mann	Seiberling
Gradison	Matsunaga	Sharp
Gude	Mikva	Simon
Haley	Mills	Smith, Iowa
Hall	Mink	Spellman
Hamilton	Mollohan	Stanton,
Hannaford	Morgan	J. William
Harkin	Mosher	Stanton,
Harris	Murphy, Ill.	James V.
Hastings	Myers, Pa.	Steed
Hawkins	Natcher	Stratton
Holtzman	Nichols	Van Deerlin
Jacobs	Obey	Vigorito
Jones, Okla.	O'Brien	Whalen
Karth	Pepper	White
Kastenmeier	Preyer	Whitten
Kazen	Quie	Wright
Krueger	Railsback	Yates
LaFalce	Rangel	Young, Tex.
Lloyd, Calif.	Regula	Zablocki
McClory	Reuss	

ANSWERED "PRESENT"—1

Wilson, Bob

NOT VOTING—123

Abdnor	Ford, Mich.	Neal
Abzug	Ford, Tenn.	Nix
Adams	Frey	Nolan
Andrews,	Fuqua	Passman
N. Dak.	Gaydos	Patman, Tex.
Ashbrook	Giaimo	Patterson,
Barrett	Goldwater	Calif.
Bedell	Green	Pettis
Bell	Guyer	Peyser
Bergland	Harsha	Poage
Bevill	Hayes, Ind.	Price
Broomfield	Hays, Ohio	Randall
Brown, Calif.	Hébert	Rees
Burke, Fla.	Heinz	Riegle
Butler	Heistoski	Risenhoover
Carney	Henderson	Rousselot
Carter	Hightower	Roybal
Chappell	Hinshaw	Ryan
Chisholm	Horton	St Germain
Clancy	Howe	Santini
Clawson, Del	Hungate	Shipley
Clay	Jones, Ala.	Sisk
Conlan	Jordan	Skubitz
Conyers	Ketchum	Smith, Nebr.
Corman	Koch	Steelman
Cotter	Latta	Symms
Daniels, N.J.	Long, Md.	Taylor, N.C.
Danielson	Lujan	Teague
Delaney	McCollister	Thompson
Dent	McDonald	Thornton
Derwinski	Madden	Traxler
Devine	Madigan	Udall
Dickinson	Martin	Ullman
Duncan, Tenn.	Metcalfe	Vanik
Esch	Meyner	Walsh
Eshleman	Milford	Waxman
Evans, Colo.	Moorhead,	Wiggins
Evins, Tenn.	Calif.	Wilson, C. H.
Fary	Moss	Wilson, Tex.
Fenwick	Mottl	Winn
Findley	Murphy, N.Y.	Yatron
Flynt	Murtha	Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Hays of Ohio for, with Mr. Patman against.

Mr. Hébert for, with Mrs. Meyner against.

Mr. Passman for, with Mr. Nix against.

Mr. Adams for, with Mr. Santini against.

Mr. Mottl for, with Mr. Waxman against.

Mr. Koch for, with Mr. Hayes of Indiana against.

Mr. Green for, with Mr. Moss against.

Mr. St Germain for, with Mr. Bob Wilson against.

Mr. Zeferetti for, with Mr. Fary against.

Mr. Dickinson for, with Mr. Horton against.

Mr. Skubitz for, with Mrs. Fenwick against.

Mr. Butler for, with Mrs. Smith of Nebraska against.

Mr. Murphy of New York for, with Mr. Bevill against.

Mr. Dent for, with Mr. Price against.

Mr. Dominick V. Daniels for, with Mr. Conyers against.

Until further notice:

Mr. Fuqua with Mr. Risenhoover.

Mr. Giaimo with Mr. Ryan.

Ms. Abzug with Mr. Corman.

Mr. Barrett with Mr. Teague.

Mr. Nolan with Mr. Sisk.

Mr. Riegle with Mr. Charles H. Wilson of California.

Mr. Shipley with Mr. Udall.

Mr. Taylor of North Carolina with Mr. Evans of Colorado.

Mr. Thompson with Mr. Metcalfe.

Mr. Delaney with Mr. Chappell.

Mrs. Chisholm with Mr. Brown of California.

Mr. Henderson with Mr. Hungate.

Mr. Murtha with Mr. Clay.

Mr. Vanik with Mr. Danielson.

Mr. Yatron with Mr. Randall.

Mr. Cotter with Mr. Hightower.

Mr. Carney with Mr. Long of Maryland.

Mr. Ford of Michigan with Miss Jordan.

Mr. Gaydos with Mr. Howe.

Mr. Helstoski with Mr. Rees.

Mr. Ullman with Mr. Milford.

Mr. Bedell with Mr. Madden.

Mr. Evins of Tennessee with Mr. Roybal.

Mr. Flynt with Mr. Neal.

Mr. Jones of Alabama with Mr. Traxler.

Mr. Thornton with Mr. Charles Wilson of Texas.

Mr. Abdnor with Mr. Bell.

Mr. Andrews of North Dakota with Mr. Burke of Florida.

Mr. Bergland with Mr. Carter.

Mr. Duncan of Tennessee with Mr. Ashbrook.

Mr. Broomfield with Mr. Clancy.

Mr. Del Clawson with Mr. Conlan.

Mr. Devine with Mr. Derwinski.

Mr. Goldwater with Mr. Esch.

Mr. Guyer with Mr. Eshleman.

Mr. Harsha with Mr. Findley.

Mr. Frey with Mr. Ford of Tennessee.

Mr. Hinshaw with Mr. Heinz.

Mr. Ketchum with Mr. Lujan.

Mr. Latta with Mr. Madigan.

Mr. McDonald of Georgia with Mr. Martin.

Mr. Peyser with Mr. McCollister.

Mr. Steelman with Mr. Moorhead of California.

Mr. Symms with Mr. Patterson of California.

Mr. Walsh with Mrs. Pettis.

Mr. Rousselot with Mr. Winn.

Messrs. BOB WILSON and NICHOLS changed their vote from "yea" to "nay."

Mr. BOB WILSON. Mr. Speaker, I have a live pair with the gentleman from Rhode Island (Mr. ST GERMAIN). If he were present he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to provide for the conservation and management of the fisheries, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. SULLIVAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 200, the bill just passed.

The SPEAKER. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL MIDNIGHT, WEDNESDAY, OCTOBER 15, 1975, TO FILE CERTAIN REPORTS

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations has until midnight Wednesday, October 15, 1975, to file reports on the following four measures:

First. H.R. 8948, to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General, of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco, and Firearms;

Second. H.R. 9924, to direct the National Commission on the Observance of International Women's Year, 1975, to organize and convene a National Women's Conference, and for other purposes;

Third. Federal Aviation Administration's procurement of the electronic voice switching system; and

Fourth. Improved procedures needed by FAA for implementing NTSB safety recommendations.

The SPEAKER pro tempore (Mr. MCFALL). Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Mr. MIKVA. Mr. Speaker, on October 7, 1975, I was present and voting on rollcall No. 599 and voted in the affirmative. Apparently the machine did not so record my vote. I ask that this explanation be inserted in the RECORD to reflect that I voted for H.R. 9500, the Construction Industry Collective Bargaining Act of 1975.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time in order to ask the distinguished majority leader if he is in a position at this time to inform the House as to the remainder of the program for this week and the program for next week or the program for the week following the recess.

Mr. O'NEILL. Mr. Speaker, if the minority leader will be kind enough to yield, I will announce the program.

Mr. RHODES. I yield to the majority leader.

Mr. O'NEILL. Mr. Speaker, the program for the House of Representatives for the week of October 20, 1975, is as follows:

On Monday we will call the Consent Calendar, and we will consider bills under suspension of the rules. The votes on suspensions will be postponed until the end of all suspensions. There are seven suspensions to be considered, as follows:

H.R. 9852, Housing Act amendments;

H.R. 3427, Bicentennial medals for ethnic Americans;

H.R. 7808, Charles Carroll Bicentennial Medal;

H.R. 8151, Brig. Gen. Charles E. Yeager Medal;

H.Res.780, disapproval of Federal Elections Commission proposed regulation;

H.R. 9924, National Women's Conference, 1976; and

H.R. 8948, audit of Internal Revenue Service.

After that we will consider H.R. 7988, heart, lung, and blood research, research training, and genetic diseases amendments, under an open rule, with 1 hour of debate; and S. 584, retirement credit for National Guard technician service, votes on amendments and bill, the rule having already been adopted.

On Tuesday we call the Private Calendar. There are no bills scheduled to be considered under suspension of the rules on that date at this time.

Then we will take up the following bills:

H.R. 8617, Federal Employees Political Activities Act, under an open rule, with 1 hour of debate;

H.R. 6227, right to representation during questioning, votes on amendments and bill; and

H.R. 7222, Federal employees' group life insurance, votes on amendments and bill.

On Wednesday and Thursday we will consider the following bills:

H.R. 6844, Consumer Product Safety Commission improvements, conclude consideration;

H.R. 8672, emergency rail transportation improvement and employment, under an open rule, with 1 hour of debate;

H.R. 9472, TVA bonding authority, under an open rule. with 1 hour of debate; and

H.R. 6184, referees in bankruptcy salaries, under an open rule, with 1 hour of debate.

Conference reports may be brought up at any time, and any further program would be announced at a later date.

The House will adjourn at the close of business on Thursday, October 23, 1975, to noon on Tuesday, October 28, 1975.

Mr. Speaker, I want to thank the gentleman from Arizona (Mr. RHODES) for yielding, and I trust that he will have a nice sojourn down in Arizona and will be doing good work for the American people.

Mr. RHODES. Mr. Speaker, I thank the majority leader. As he reports back to the grassroots, I trust that he will spend some time in his district and learn the temper of the American people.

Mr. O'NEILL. The gentleman from Arizona can be sure that I will, and I will make a true report on inflation and the other things that beset the Nation, including baseball.

Mr. RHODES. I was thinking more about that sport, the World Series between the Boston Red Sox and the Cincinnati Reds.

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM THE SENATE AND THE SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS ONLY PASSED BY THE TWO HOUSES AND FOUND TRULY ENROLLED, NOTWITHSTANDING ADJOURNMENT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the House until October 20, 1975, the clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER pro tempore (Mr. MCFALL). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AUTHORIZING SPEAKER TO ACCEPT RESIGNATIONS AND APPOINT COMMISSIONS, BOARDS, AND COMMITTEES, NOTWITHSTANDING ADJOURNMENT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until October 20, 1975. The Speaker be authorized to accept resignations and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, OCTOBER 22, 1975

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday, October 22, 1975, be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO FILE PRIVILEGED REPORT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the Committee on House Administration may have until midnight tonight to file a privileged report on House Resolution 710.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

THE RESPONSIBILITY OF THE CONGRESS TO THE UNEMPLOYED

(Mr. HEINZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEINZ. Mr. Speaker, I feel compelled to rise today to express my deep concern about the priorites this body has established for itself and for the Nation. Millions of Americans who are willing and able to work for a decent wage cannot do so because there are not enough jobs to go around. Instead, these unemployed men and women are forced onto the public relief roles, at great expense to the taxpayer and to their own sense of pride and dignity.

This Congress is not doing nearly enough to put the unemployed back to work. We have not enacted into law one bill that would provide useful employment for the countless men and women who would like nothing better than to once again play a productive role in the American economy.

Mr. Speaker, the real tragedy is that this Congress now has an opportunity to help the jobless, yet this Congress is not acting quickly enough to meet the challenge. The Commerce Committee reported H.R. 8672, the Emergency Rail Transportation Improvement and Employment Act, 4 weeks ago and the Rules Committee acted several weeks ago in granting the bill a rule. But since then the bill has met with nothing but delay and more delay. Now we discover that the emergency rail jobs bill will not be before the House until after the Columbus Day recess at the earliest.

This week the House acted on a bill granting special pay provisions for armed services veterinarians and optometrists. Why is it then that we cannot act swiftly to provide jobs to men and women who have none at all? We have provided for Bicentennial commemoration and for Bicentennial medals. Why have we not provided productive jobs for the unemployed? We have passed a bill allowing for special tax treatment of irrigation facilities obligations. I think it is time we met our obligations to the jobless. I believe that we must give the unemployed the simple, decent treatment they deserve and have a right to expect before we begin to give special treatment to the special interests.

Finally, Mr. Speaker, we have just voted on a resolution that gives us a 1-week rest period for Columbus Day. How do we explain to the unemployed men and women of this Nation why our recess is more important than their livelihood? How can we possibly explain the speedy action we have taken on our recess resolution when a sound jobs bill meets with nothing but delay? How do we explain to the taxpayer a month's delay during which time the taxpayer must pay for an ever-mounting cost for welfare and unemployment? This is nothing more or less than a matter of priorities. I do not think we can afford to put the unemployed and the taxpayers off any longer. It is no wonder the people of America think Congress is doing a poor job. The record we have written this week is only more proof. I do not think our people should put up with these upside down priorities. It is time we took the jobless off the relief roles and put them back to work by passing, not postponing good legislation like H.R. 8672.

PORTUGAL—A TESTING GROUND FOR THE REALITY OF THE SOVIET UNION'S COMMITMENT TO DÉTENTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 30 minutes.

Mr. KEMP. Mr. Speaker, the recent resignation of Portugal's Communist President Vasco Goncalves was greeted with relief by a free world that had been anxiously watching the disturbing left-wing upheaval within the Portuguese Government for a year and a half.

Since the overthrow of the "benevolent dictatorship" of Dr. Marcello Caetano—who like his predecessor, Dr. Antonio de Oliveira Salazar, had cemented his authoritarian administration with censorship and the suppression of "opposition" parties—Portugal's growing political instability has jeopardized many previously solid alliances within the West. Throughout Portugal's internal struggle to resist the steady inroads being forged by the Soviet-supported Portuguese Communist Party—PCP—NATO allies have stood by helplessly.

WHAT HAS HAPPENED IN PORTUGAL IN RECENT YEARS?

The present turmoil within Portugal began with a bloodless military coup led by Gen. Antonio de Spinola on April 25, 1974. It was caused more by compounded frustrations over the protracted colonial war in Angola, resentment over low military pay and slow promotion, and a vague revolutionary idealism, rather than by an ideological opposition to Salazar's and Caetano's general policies.

The military revolutionists established an interim system of government comprised of a traditional Junta of National Salvation, a Provisional President who was designated as the Supreme Commander of the Armed Forces, and a Prime Minister, appointed by the President to rule the civil government. The Armed Forces Movement established itself as the official trustee of internal security and government power. Elections for a Constituent Assembly were promised within a year, and once opposition political parties and trade unions were permitted.

The Portuguese Communist Party, which had been operating underground since a ban on political activism went into effect in 1928, now emerged as a small but very well-organized political force. The PCP was led by Gen. Alvaro Cunhal, a well-known public figure who had built his political base over the years on a vocal opposition to Caetano's authoritarian regime. Cunhal is known as one of the Kremlin's top non-Soviet Communist Party leaders, having been for many years personal friends with both Soviet party leader Leonid Brezhnev and Cuba's Premier Fidel Castro. In 1960 Cunhal escaped from a Portuguese prison where he had been jailed for plotting an overthrow of the government along Czechoslovakian lines. He then lived in Prague for 14 years, where he worked with the Soviet intelligence and espionage forces and studied the application of the tactics of the 1968 Soviet invasion of Czechoslovakia to the Portuguese situation. He is known as the only Communist leader in Western Europe to have openly endorsed and supported the Czech invasion.

The other major leftist party to emerge at this time was the Socialist Movement led by party chairman Mario Soares, another figure strongly opposed to the former Salazar and Caetano regimes, but one not as well organized as Cunhal.

Central to an understanding of the situation in Portugal today is the reality that the Communist Party is not the farthest left party on the political spectrum. There are numerous parties actually farther to the left than the five hammer and sickle Communist parties. The most conservative group in the whole country is Mario Soares' Socialist Movement, which has declared its principles to be the "pursuit of socialism through democracy."

Between the April coup and January of the following year, the size of the Communist party grew from an estimated 1,500 members to an estimated 15,000. Its support was concentrated among the armed forces, and was able to reach very quickly into all levels of the largely military government—from high officials down to the local election boards.

President Spinola's moderate course soon clashed with the now heavily Communist dominated MFA, and the Coordinating Council of the Armed Forces Movement began a subtle but effective campaign of opposition to his government. On September 28, 1974, matters came to a head when 70,000 supporters of Spinola's more restrained and more centrist policies tried to stage a rally in his support in Lisbon. Communist strong men set up roadblocks to prevent busloads of Spinola supporters from entering the city, and threatened violence if the rally continued as planned. To avoid bloodshed, a dejected General Spinola called off the rally. Two days later he handed in his resignation, frustrated at the impossibility of building an "authentic democracy" in such a "climate of anarchy."

Spinola's place was now quickly taken by former Defense Chief, Gen. Francisco da Costa Gomes, who had served under the Caetano regime. He is still in office. Costa Gomes was considered a moderate at the time of his accession, but even veteran analysts of the Portuguese political situation were not sure exactly where he stood. He had been dubbed "the cork" in some Portuguese circles because of his ability to bob to the top in the most diverse ideological and political situations.

Although he was out of office, General Spinola remained within the country and was rebuilding his own support—with an eye to regaining control of the government. On March 10, 1975, however, he learned that the Communists were preparing to execute up to 1,000 of his supporters, himself included, within the week. In a hastily-organized effort, Spinola led supporters in a coup attempt against the government which failed. He subsequently fled to Spain. Later Spinola was to testify from Brazil that he did not believe such a massacre had actually been planned at all—that and the fact of the clumsiness of the attempt led to many independent speculations that the massacre rumor and coup attempt were deliberately engineered by Communists in order to rid the country of their most formidable opponent. The coup did indeed fall neatly into the PCP's plans. It was used as an excuse to thoroughly purge the armed forces of any remaining centrist, moderate and conservative elements by declaring them to be in league with conspirators who were plotting against the wishes of the people.

One week after the March 11 coup attempt, the newly created center of political power—the Revolutionary Council—announced the "suspension" of activities by the Christian Democrat Party, the Movement for the Reorganization of the Proletariat Party—MRPP—and the Alliance for Peasants and Workers—AOC. The Christian Democrats were the political party supported in large part by the Catholic Church, and it was the more conservative of the 15 political parties that had sprung up under the aura of political liberalism after the 1974 Portuguese revolution. Both of the other two parties considered themselves farther left than even the Communist Party—one being Maoist and the other doctrinaire Marxist.

The most immediate effect the ban on political activities had on these groups—and the effect obviously planned—was to prevent them from taking part in the upcoming elections. The significance of the MFA's actions was clear. Each of these three parties was in a position to challenge, perhaps strongly, the influence of the Communist Party in the elections. As the church-supported political party, the Christian Democrats had the support of most of the rural areas, which constituted an immense voting bloc. The AOC had recently joined in an effort to block the Communist takeover of the Portuguese labor unions. The MFA was obviously taking every precaution to insure that the maximum possible opposition by anticommunist groups would be eliminated from the election results.

By the end of March, the situation in Portugal was so bad that Newsweek magazine wrote that the country seemed to be "racing down the path toward authoritarian socialism." The State Department received a cable from Gen. Otelo Saraiva de Carvalho, acting commander of the Continental Operations Command—COPCON—which declared:

> The results of the spring elections will not necessarily represent the will and the best interests of a majority of the Portuguese people.

Only a month before the scheduled elections, the Revolutionary Council seized control over virtually the entire country.

First, it nationalized the insurance companies and the banks—and with the banks, most of Portugal's bank-owned media, especially the newspapers.

Soon after, the state confiscated the country's oil, steel, and electric com-

panies, and then the transportation, cement, cellulose, and tobacco industries.

It took control of all the large unirrigated estates in southern Portugal, and limited the ownership of irrigated farm property to 125 acres.

The actions prompted international comment that Portugal was going the way of Bulgaria, with sandy beaches for the tourists and poverty and hunger for the people.

The nationalization of industry was soon followed by the imprisonment of over a hundred centrists and conservatives without trial or charges. There was then a reshuffling of the provisional government's cabinet to include more Communists and Communist sympathizers.

There was a curious absence of official concern over exposure of these blatant violations of individual rights and due process in the Western democracies.

SOVIET SUPPORT CONTINUES: SERIOUS QUESTIONS ABOUT SOVIET COMPLIANCE WITH DÉTENTE

The steady growth in power by the Communists in the face of their strident political opposition by a preponderant majority of the Portuguese people was a feat of almost impossible magnitude for a party to accomplish without outside funds and support.

On April 4, 1975, the Washington Post reported that the Kremlin had sent an ambassador to Lisbon, Arnold I. Kalinin, 3 months after the 1974 coup, to open up the first Soviet embassy in Portugal. Although the official size of the Russian embassy is roughly the same as that of the United States, it has been estimated that there are at least 120 Soviet officials and "representatives" now in Lisbon, representing such Soviet interests as the Tass News Agency, Aeroflot, and the Novotny Bank. Some are known to be highly skilled and trained KGB agents. The new ambassador has been described by the Post as "the most successful diplomat in Portugal today," moving "discretely amid headlines stressing Moscow's support and sympathy for the Portuguese revolution." Ambassador Kalinin came directly to Portugal from his post as Soviet Chargé d'Affaires in Havana, Cuba. The significance of that cannot go unmentioned.

Three weeks later an article appeared in Time magazine entitled, "Those Friendly Russians." Time's writers concentrated in particular on the amount of economic support being provided the Portuguese Communist Party by the U.S.S.R. and how that contrasted with what we are being told by our own Secretary of State about present Soviet behavior—that one of the behavior charges we are getting from détente is much less Soviet fostering of revolution in other countries.

Time commented that while "how much the Soviets are giving to Portugal's resurgent Communist Party is a matter of conjecture in Lisbon, some estimates put the figure at $40 million to $50 million over the past year, much of it donated by Russian and East European trade union movements." For a country presently faced with a budget deficit of $850 million, these are indeed substantial figures.

Many others put the amount of probable Soviet support at a much higher dollar level. British Prime Minister Harold Wilson stated last spring that his intelligence sources had informed him that a more realistic figure of Soviet support into the Portuguese Communist Party was approximately $100 million a year. Prime Minister Wilson's statements were corroborated by Swedish Prime Minister Olaf Palme, who expressed his concern for the weakening of an old NATO ally:

The Russians are pouring in money in enormous sums.

Despite repeated denials of assistance and assurances of good faith by the Soviet Union, allegations of millions of dollars of Soviet money pouring into Portuguese coffers continue to gain weight. A U.S. News & World Report article confirms Soviet cash donations to the PCP "despite a Portuguese law which makes it illegal for political parties to accept foreign funds or help." Soviet support has not been limited to dollar aid, either. Trade agreements with very generous credit terms have been recently concluded between Portugal and the Soviet Union, through which Lisbon has agreed to buy 1 million tons of crude oil from Russia. In addition, reliable sources report that large shipments of weapons have arrived in Portuguese ports from the U.S.S.R. and other Communist-governed countries in Eastern Europe.

Despite the signing of the Helsinki agreement of nonintervention in mid-July, support from the Soviet Union of revolutionary forces within Portugal has increased dramatically in the past 3 months. On August 20 the Washington Post reported directly from Moscow that the Soviet Communist Party newspaper Pravda had just called for a display of "Soviet solidarity" with the Portuguese Communist Party.

Ignoring warnings from the United States and a number of participants in the Helsinki summit conference that continuation of the attempted Communist takeover in Lisbon would "strike a severe blow" at détente, the Soviet Union persists in interpreting "détente" in its own unique way. To the Soviet Union, there is nothing contradictory in sending millions of dollars of direct aid to Portugal earmarked for revolutionary activities, while committing to international nonintervention in a signed document for all to see.

To a critical eye, however, it is questionable whether the Helsinki document, by which the Soviet Union has agreed to abide, leaves such broad room for interpretation. I would like to quote from three sections of the final act of the Conference on Security and Cooperation in Europe signed by the Soviet Union on July 21, 1975. These sections clearly prohibit the kind of support that has been displayed by the Soviet Union in the affairs of another independent country:

SECTION I. SOVEREIGN EQUALITY, RESPECT FOR THE RIGHTS INHERENT IN SOVEREIGNTY

The participating States will respect each other's sovereign equality and individuality as well as all the rights inherent in and encompassed by its sovereignty, including in particular the right of every State to juridical equality, to territorial integrity and to freedom and political independence. They will also respect each other's right freely to choose and develop its political, social, economic and cultural systems as well as its right to determine its laws and regulations.

SECTION II. REFRAINING FROM THE THREAT OR USE OF FORCE

The participating States will refrain in their mutual relations, as well as in their international relations in general, from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations and with the present Declaration. No consideration may be invoked to serve to warrant resort to the threat or use of force in contravention of this principle.

SECTION VI. NONINTERVENTION IN INTERNAL AFFAIRS

The participating States will refrain from any intervention, direct or indirect, individual or collective, in the internal or external affairs falling within the domestic jurisdiction of another participating State, regardless of their mutual relations.

They will accordingly refrain from any form of armed intervention or threat of such intervention against another participating State.

They will likewise in all circumstances refrain from any other act of military, or of political, economic or other coercion designed to subordinate to their own interest the exercise by another participating State of the rights inherent in its sovereignty and thus to secure advantages of any kind.

Accordingly, they will, inter alia, refrain from direct or indirect assistance to terrorist activities, or to subversive or other activities directed towards the violent overthrow of the regime of another participating State.

Against this background the New York Times editorialized last March that—

The détente atmosphere, which has contributed to the retraction of American and NATO military power, appears to be having the opposite effect on the Soviet Union. In the Indian Ocean, in the Mediterranean, in the Red Sea and the South Atlantic, there are growing signs of an outward thrust of Soviet military power.

Whereas the United States has consistently resisted the temptation to send in military or economic aid to the beleaguered Portuguese citizens out of respect to our "spirit of détente" with the Soviet Union, it appears that no reciprocity was ever part of the plans of the Soviet leadership.

Not only was the Soviet Union giving millions of dollars' worth of direct economic aid and indirect in-kind contributions into an effort for the overthrow of one of our Western allies, but was in fact dictating the preferred methods of that overthrow from Soviet Communist headquarters.

This summer, the Socialist newspaper Republica printed a top-secret Soviet document allegedly sent to the PCP by the Secretary of the Soviet Communist Party in charge of relations with foreign Communist parties, Boris N. Ponamaraev. Because of its courageous action the Republica was summarily seized by the PCP, and remains in Communist hands to this day.

The following month the Parisian daily Quotidien de Paris acquired a copy of the document, and published it in full. The Soviet document made five points, in-

structing the PCP on how it could insure a successful revolution:

1. Operational groups under the Communist Party's control are to reinforce its power in the Portuguese administration, sabotage its directives and destroy efficiency.
2. A single trade union is to be set up and "deviationists" rigorously dealth with.
3. There is to be a tactical alliance with the Armed Forces, coupled with "conversion or subversion" of leaders in the military hierarchy. In particular (in view of the experience in Chile) security commanders must be eliminated.
4. On coming into power, the Western communist parties must deprive "enemies of the working class" of all mass media and means of propaganda and win the "battle of slogans".
5. Speedy action must be taken to consolidate a government of the Left, and to destroy the private sector of the economy by nationalization measures.

After reading the document, former NATO Ambassador Elbridge Durbrow testified:

Ponamaraev's document was in effect a refinement of a 15,000-word set of new, agreed directives adopted by over 70 Communist parties at a 1969 Moscow meeting.

That outlined the plans of the Communists in their efforts eventually to take over all non-communistic governments.

NATO CONSIDERATIONS

The international community has been understandably worried over the significance of the threat of an increasingly leftward turn in Portugal. While news of the ouster of Portuguese Communist Premier Vasco Goncalves gave some hope to many that the anti-Communist forces in Portugal were finally gathering strength, recent reports indicate that the Portuguese political situation is in a state of constant turmoil.

The Communists still have control of the country's radio stations and newspapers and are using them to air emotional anti-American slogans and flaming indictments of the more moderate philosophy of Prime Minister Azevedo. PCP leader Alvaro Cunhal has publicly stated that "Portugal will never become a democratic state." And, as Soviet aid continues to flow generously into Communist bank accounts, traditional allies of the NATO country are going through an agonizing reappraisal of their hitherto unquestionable foreign alliances.

On March 19, 1975, an editorial appeared in the New York Times that reflected the deep concern of the Western World over the unsettling state of affairs in the North Atlantic. That editorial said:

The rapidity with which the Soviet Union has moved in to seek refueling facilities on the Atlantic island of Madeira for its merchant ships indicates that Western concern over Portugal's lurch to the left is well-founded.

Since Portugal signed the NATO Treaty on April 4, 1949, its military bases have provided the nucleus of NATO's defense activities in that sector of the North Atlantic and in the Mediterranean Sea at whose western entrance it is strategically located.

During the October 1973 Middle East war Lisbon's strongly pro-Western government was the only European country to allow the United States to use her facilities to airlift urgently needed supplies to an embattled Israel. Giant U.S. C–5 Galaxy transport planes and smaller C–141 cargo aircraft were able to refuel at Lajes Air Force Base on Terceira Island in the Portuguese Azores over 565 times, and enabled U.S. planes to airlift more than 20,000 tons of supplies and equipment to the cordoned-off Israeli troops. In addition, F–4 fighters, supplied by the United States as the backbone of the Israeli Air Force, were also refueled enroute to the Middle East by KC–135 tanker planes based at Lajes.

Until the 1974 coup, there was never in the history of the NATO Alliance a threat to its very existence such as is now being felt. The original purpose behind the creation of the NATO Alliance was after all a defense pact against the Soviet-alined nations of the Warsaw Pact. A Communist regime in Portugal will necessarily call into question the meaning of the entire NATO treaty, and at the minimum cause major realliances among the NATO pact countries.

Since the Portuguese Communist Party has virtually taken contol over the entire Portuguese Government regardless of who holds titular control over the civil government, a steady push toward ideological alinement with the Soviet satellite countries has taken place, bringing the Portuguese nation into a decidedly less friendly relationship with Western countries. The agreement with Portugal by which the United States was allowed the use of the Azores Islands expired in February of 1974, and so far the liberal Portuguese Government has not signed a renewal of the treaty. Fortunately, under the terms of the original agreement, the United States is allowed to continue its use of the bases until a final decision is reached.

However, in his first press conference last April since taking office, former Prime Minister Vasco Goncalves reversed his country's previous stand on close relations with Western countries—and specifically the United States—by expressly forbidding all further relief operations by the United States from the Azores Islands—such as the one that occurred during the Middle East war.

Israel's security in the event of another breakout of war in the Middle East would be directly affected by the loss of a Portugal alined with the Soviet Union. Perhaps this explains why the Israelis are now reopening doors with the Soviet Union.

STRATEGIC SIGNIFICANCE OF PORTUGAL AND AZORES

The Portuguese Azores islands lie between 900 and 1,000 miles off the coast of Portugal, approximately parallel to Washington, D.C., to the west, and the Straits of Gibraltar to the east. They are one of four NATO patrol bases in the North Atlantic Ocean, and provide a crucially important refueling point for U.S. ships and aircraft.

Last spring the Baltimore News American did a detailed analysis of Portugal's actual military value, and it came up with some startling facts.

When the war broke out in the Middle East in 1973, the United States responded almost immediately with a rescue airlift from the Azores Islands that turned the tide of the Middle East war. Without the Portuguese Azores, the nearest U.S. base would have been in Bermuda, a minimum 7 hours' flying time across the ocean. Without the critical support of the Caetano regime, the United States would have had to refuel all its flights in flight at a fantastic cost to the American taxpayers, and at the same time cut down its support by smaller planes unable to refuel in flight.

More important than a refueling stop, however, the Portuguese Azores house a vital satellite communications center and highly technical submarine surveillance system that, along with wide-ranging spotter aircraft monitor the entire North Atlantic Ocean for Soviet submarine activity. In particular the Azores scan the two major sea lanes between the Norwegian Sea and Iceland's Giuk Gap, and between the Azores and Portugal down through the strategic Straits of Gibraltar. Without the Azores Islands as part of the Western defense system it would be virtually impossible to effectively monitor any Soviet submarine activity in the Atlantic Ocean, or to take appropriate countermilitary measures if necessary.

In December 1966, NATO's North Atlantic Council created the Iberian Atlantic Command—IBERLANT—specifically for the protection of these vital sea lanes. NATO recognized that this protection was necessary, not only for the sake of military preparedness, but for the safety of international commercial vessels as well.

Particularly important to the Western World were the supplies of oil that are shipped daily from the Middle East and North Africa by supertanker through the Straits of Gibraltar. Although Europe and America are presently satisfactorily energy self-sufficient to be able to cope with short-term delays in oil shipments, the Arab oil boycott of 1973 proved, to the world's discomfort, that even the United States must be concerned enough about the world situation to insure the continuity of imported oil shipments to our borders.

On the average, more than 400 ships a day pass through the IBERLANT area, and the volume of the cargo they carry increases every year. Sixty-five percent of all oil imports to Europe alone pass through the area of the North Atlantic presently protected by NATO's IBERLANT Command. This area contains approximately 600,000 square miles of ocean, extends from the Tropic of Cancer on the south to Portugal's northern border, and stretches some 700 nautical miles westward from the Straits of Gibraltar into the Atlantic Ocean. It is a crucial area of major significance crossed at some point by every ship traveling through the Mediterranean as well as those navigating between northwest Europe and South America, Western and Southern Africa, the Persian Gulf and the Far East. The area is particularly critical when the Suez Canal is closed—then oil tankers sail through this area after rounding the Cape of Good Hope on their way to Europe.

In addition to the oil transported by

the supertankers, over 57 percent of Europe's foodstuff imports also travel through these waters in the course of a year, although in times of war the oil tankers are particularly vulnerable to attack, since supertankers offer such easy and obvious targets. In addition, the loss of only one or two oil ships would definitely have a considerable international impact.

Headquarters for the IBERLANT Command, the watchdog of these waters, are located only a few miles outside of Lisbon. They consist of an aboveground administration building, and an underground war headquarters which is presently equipped with a modern, efficient communications network aimed at controlling and protecting shipping in the vital sea lanes. Because of the Soviet Union's recent thrust in increasing its military forces, and in particular its navy and nuclear submarine fleet, and with the development of increasingly effective submarine-launched ballistic and cruise missiles, IBERLANT's major responsibility is intelligence gathering on the number and location of the Soviet fleet in the North Atlantic.

Rear Adm. Eugene B. Fluckey, USN, former commander of the international crew of naval officers who staff the IBERLANT headquarters, outlined for the NATO community the purpose for the Portuguese-based intelligence operation.

Admiral Fluckey stated:

Having spent most of my life in submarines, I know from experience there are two ways to beat them. Either you can beat them with your antisubmarine forces, or you can isolate and avoid them. Even without a great number of protective forces, provided we have good intelligence, we can outsmart them.

In addition to the main IBERLANT base outside of Lisbon, NATO has a number of other bases in Portugal that of necessity have been heavily supported in the past by IBERLANT's host country. As well as providing the site for the headquarters itself, and roughly one-third of its staff, Portugal participates in surface and air surveillance of Russian forces during their transit through the IBERLANT area. It also from time to time lends a frigate to the Supreme Allied Commander Atlantic's—SACLANT—Standing Naval Force Atlantic—an international squadron of ships from NATO countries which regularly patrol the ocean. In addition, Portugal has made available a number of facilities which are essential to back up the forces themselves.

Admiral Fluckey explained:

The infrastructure value of Portugal from the SACLANT viewpoint, is only second to that of Great Britain.

We have an airfield at Espinho, near Porto, which was built by NATO for maritime patrol aircraft. We have the Montijo airforce base near Lisbon which was extended and expanded and which has a NATO section for maritime patrol aircraft. We have the big ammunition and fuel depots on the other side of the River Tagus on the coast of Caparica. We also have our transmitter and receiver stations there for the headquarters. Other than that, there are such things as LORAN [long-range] navigational networks. I have an island subordinate commander, the Military Commander of Madeira, at Funchal. We have another airfield down there at Porto Santo for maritime patrol aircraft. Then there is an infrastructure complex outside my area in the Azores Islands, which comes under Commander-in-Chief Western Atlantic, which includes a POL deport (petrol, oil and lubricants) and port facility, and a LORAN station and other communications facilities. . . . It is to be hoped that IBERLANT's most active role will be confined to conducting exercises but, if the worst comes to the worst, it is NATO commands such as this which will ensure that Western Europe continues to get the supplies which constitute its very life blood.

Any threat to Portuguese independence is of particular importance at this time to NATO, in light of its weakening southern flank. With the Greek and Turkish conflict over Cyprus, with the large gains made by the Communist parties in France and in Italy's last elections, and with Spain's recent refusal to grant the United States base rights within its borders without a $1.5-billion weapons agreement, Western defenses within the Mediterranean have become particularly vulnerable.

Secretary of Defense James R. Schlesinger testified only last month that should Portugal fall within the Soviet sphere of influence the ability of the U.S. 6th Fleet stationed in the Mediterranean to function in times of war would be severely endangered. Asked what the consequences would be if Soviet submarines were ever based in Portuguese ports, the Secretary replied:

I think that any movement of that sort, which we of course hope would not take place, would endanger the viability of the Sixth Fleet.

Mr. Schlesinger noted that the Soviet Mediterranean fleet outnumbered the 6th Fleet 3 to 2 during the 1973 Middle East war, and that the Soviet Union is presently spending in excess of 30 percent more than the United States on defense.

In addition to the important part a free Portugal plays to the 6th Fleet, the Azores air bases and the IBERLANT headquarters, the preservation of a non-Soviet Portuguese coastline has been the subject of very serious speculation. Should the Soviet Union prevail in her influence over the Portuguese people, she will have gained the "window on the Atlantic" she has never been able to get. The Times London of last May 22 outlined its fear of just such a situation:

The air base in the Azores proved invaluable to the Americans during the October War. But . . . the loss of Portugal's Atlantic seaboard would be the most hurtful of all. Indeed, with so much concern over the ability of the Soviet Navy's submarine fleet to slice through the Atlantic sea lanes in times of strife, the loss might be seen as a major setback—if it ever occurred.

Indeed, the Soviet Union has already requested, and obtained, a permit for a so-called fishing port at Figueras do Foz, at the entrance to the Lisbon estuary.

Now it appears that because of the wording of the NATO constitution, there is no way that Portugal can be excluded from NATO if she indeed becomes Communist-controlled. This was not a contingency foreseen at the time of its drafting. Because of the open nature of NATO communications to member countries, the prospects of the possible funneling of highly sensitive, classified material into a Soviet-linked nation has caused a great deal of concern to the hierarchy of the NATO alliance.

So far Portugal has sidestepped a direct confrontation on this matter by voluntarily excepting herself from vital NATO nuclear security talks last winter, reportedly as the result of intense pressure from the United States. Should Portugal decide to demand her "full rights" as a NATO member, however, repercussions are sure to have an immediate effect on the whole NATO alliance. Even though the present Azevedo government has reaffirmed its commitment to the NATO alliance, NATO officials are voicing fears that the Communist infiltration has penetrated the Portuguese Government so deeply that it would be a definite security risk to allow Portugal access to top secret NATO security plans at this time.

Present contingency plans for dealing with an attempt to acquire such information call for the exclusion of Portugal from sensitive committees and denied access to secret papers except on a "need-to-know" basis. As a last resort, if Portuguese delegates demand to attend key committee meetings, NATO officials will dissolve the committees themselves and conduct business in informal ad hoc groups.

The Soviet Union is definitely up to something in Europe. In the past year it has added 85,000 men to its forces in central Europe, an area where it had already enjoyed a 20 percent manpower superiority over the West. At present the Warsaw Pact Alliance has 230 divisions on its Western front, 170 of them Russian. By contrast, the entire U.S. Army is less than 16 divisions. The Soviet Union has developed a new submarine-launched missile, the SSN–8, which is said to be at least 2 years ahead of its American counterpart, and which will be able to comb the Atlantic almost undetected without the NATO submarine detection headquarters on the Azores Islands.

In addition, the U.S.S.R. has now launched its first conventional aircraft carrier, the 40,000-ton *Kiev*, with a second one already on its way. This and the equipping of Warsaw Pact air forces with what has been called possibly the best jet interceptor in the world, the Mig 25 Foxbat, has led Western military analysts to believe that the Soviet Union's real military budget is at least twice the published figure. Last year, too, for the first time in several years the Russians did not hold their normal autumn or winter military maneuvers. This strange silence on Russian military capabilities is decidedly out of character with the Kremlin's usual insistence on asserting its worldwide military superiority.

The repercussions of a Soviet takeover of Portugal would be astronomical. In March the New York Times editorialized that—

A forcible Communist takeover in Portugal might encourage a similar trend in Italy and France, create problems in Greece and Turkey, affect the succession in Spain and

Yugoslavia, and send tremors throughout Western Europe.

NATO's northern flank is already questioning its participation in the alliance's activities—Norway, Denmark, Holland, and Belgium have been reported to be showing "less enthusiasm" for the NATO alliance than they had displayed before.

RECENT DEVELOPMENTS

Within the past 6 months many hectic changes have taken place within the Portuguese power struggle.

The promised elections were held on April 25, in which the Socialists, Popular Democrats and the Social Democratic Center Party received a combined total of 71.8 percent of the vote, and the Portuguese Communist Party received only 12.5 percent of the vote. As expected, however, the elections proved to be no more than an intellectual exercise. "Political elections," said MFA Information Minister Jesunio, "do not change governments."

In June the government began a systematic persecution of the Catholic Church. Realizing that the major opposition movement was backed by the anti-Communist Catholics, the strongly Communist Portuguese military government began its attack by seizing control with the help of the now-Communist trade union of the church-owned Radio Renascenca, and forbidding any further broadcasting of the Roman Catholic Mass. The church retaliated with a work slowdown by the remaining nonunion workers, and on June 5 the Cardinal Patriarch of Portugal demanded that Radio Renascenca be returned to its rightful owners. His demand was refused by Gen. Otelo de Carvalho, ruthless commander of the COPCON forces and self-proclaimed enemy of the forces of anti-Communism.

On June 18 Catholics and pro-Communist demonstrators clashed outside the palace of Portugal's Cardinal Patriarch. Three hundred Catholics attempted to halt the approach of the leftist demonstrators who were marching in support of the Communist takeover of the Catholic Church-owned Radio Renascenca. The outnumbered Catholics were pelted with rocks and iron bars as they sought refuge within the palace.

Two weeks later on July 3 the Government announced its decision to nationalize all radio stations including Radio Renascenca, but the following day Portugal's bishops jointly denounced the government's directive and refused to comply. Matters have remained at a stalemate since then, but the Portuguese Communist Party has continued its efforts to undermine the influence of the Catholic Church upon the workers.

On June 27 the High Council of the Revolution announced the formation of an 11-member Central Committee, that included the "triumvirate" of President Francisco da Costa Gomes, Prime Minister Vasco Goncalves, and COPCON commander Otelo Saraiva de Carvalho, as well as Navy Chief of Staff Jose Batista Pinheiro de Azevedo.

But the pepole of Portugal were beginning to see that this new "liberated" breed of dictators was even more iron-fisted than the authoritarian regimes of former Presidents Salazar and Caetano. Long-promised reforms showed no signs of being delivered, private property was being confiscated daily, and religious persecution in a highly Catholic country were spurring the country into revolt.

Goncalves' bitter feuds with the anti-Communist factions of the Armed Forces Movement brought the Government to a virtual standstill, and he was unable to take much needed measures to counter the over 30 percent rate of annual inflation and riots by jobless Angolan refugees from the colonial wars that left dozens wounded in a country where more than one-tenth of the population was unemployed and facing an expected winter influx of over 300,000 more refugees from the war-torn Angolan territory. Social unrest attached itself to Goncalves' quagmired government, and inspired more bloody demonstrations and attacks against over 50 Communist party headquarters all over Portugal.

Inspired by the vehemence of the resistance movements throughout Portugal, on August 7 nine dissident anti-Communist military officers drew up a "Socialist Statement" which listed their grievances against Goncalves and enlisted the support of over 400 of the most influential members of the MFA. President Costa Gomes was finally forced to ask for Goncalves' resignation, and Goncalves was ousted from his powerful office on August 29.

The new Prime Minister, Adm. Jose Pinheiro d'Azevedo, is the sixth person to hold that position since the original Portuguese revolution 17 months ago. He is by Portuguese terms a moderate—he favors achieving socialism through democratic means—and is trying to counter the general collapse of public morale while setting the country economically and socially back into a semblance of order.

But Azevedo is encountering trouble in recruiting capable talent for his Cabinet posts. No one is willing to become identified with a Government that will soon be held responsible by a desperate Portuguese people if it fails to make a sizable improvement in their rapidly deteriorating economy. Factionalized armies, supplied with everything but tanks from secret sources within the MFA, roam the countryside recruiting guerrilla fighters for the next coup which most Portuguese believe is not far away.

REPERCUSSIONS FOR THE WEST

Mr. Speaker, the pattern of Soviet infiltration into the Portuguese Government holds some frightening parallels in 20th century history. Soviet takeovers of the military, the trade unions, the press, and finally the Catholic Church follow almost exactly the same "salami strategy" employed by the Communists in many of the Eastern European countries, Cuba and Czechoslovakia.

Like Portugal, Czechoslovakia was a country dominated by moderates: Before its takeover the Communist Party there had the support of only 10 percent of the people. In fact, in none of the satellite countries were the Communists in the majority before they took total control. Through the manipulation of the trade union movement and terrorization of the opposition, the Communists took over Czechoslovakia without a shot being fired.

Like in Czechoslovakia, the small Portuguese Communist Party led by General Cunhal quickly set up a strong, well-disciplined organization with the help of millions of dollars from the Soviet Union, and swiftly seized control of many of the local government posts and, eventually, the Portuguese press. By making himself very useful to the MFA, Cunhal infiltrated the armed forces movement and became a forceful power even the more popular moderate factions could not ignore. He maneuvered the consolidation of the Portuguese trade unions into the unified intersindical, which he quickly allied with the international Communist-controlled World Trade Movement over the vehement protestations of the Socialist and Popular Democrat parties.

More indicative of the Communists' accumulated power, Cunhal was able to effectively launch a masterminded rumor campaign that successfully removed the opposition forces of former President Antonio Spinola and his supporters from the country.

Should the Communist forces in Portugal win the present power struggle within that country, the ramifications would be great. The NATO alliance would suffer a critical blow that could in fact be sufficient to be its undoing.

In a March 22, 1975 article entitled, "Portugal: A Soviet Testing Ground?" syndicated columnists Rowland Evans and Robert Novak reported on the reaction of our West European allies to the growing threat of a Communist takeover in Portugal. Evans and Novak wrote:

> Stuck without any plan of their own to retrieve Portugal from Moscow-dominated Communists, the Western European democracies have sent an SOS to Washington warning that a Communist takeover of a NATO member could have catastrophic results.

Secretary of State Henry Kissinger's little-reported "vaccination theory"—the theory that the loss of Portugal might scare the remaining free countries of Western Europe into tightening their security against a Communist takeover—can only be received with complete shock that it was spoken by an official spokesman for the American credo of freedom for all men. Weren't Vietnam and Cambodia sufficient?

Mr. Speaker, I cannot accept an attitude so callous that it would doom 10 million people to a slavery of the spirit immeasurably more cruel than mere physical imprisonment.

Last year suspicions were confirmed that PCP leader Alvaro Cunhal was receiving secret caches of money from the Soviet Union to fund his party's activities, but no action was taken by either NATO or U.N. peacekeeping forces. Secretary Kissinger issued a statement condemning the Soviet Union's active interference in the affairs of a foreign government, but the Kremlin remained silent and continued to send millions of dollars a month into the small, violence-torn country. Recent reports from reliable sources indicate that the Communist Party in Portugal has merely gone

underground, and has not given up its plans to take over the Government at the nearest opportunity.

The September 1 issue of Newsweek magazine reports that the apparent Communist withdrawal from overt power was in direct compliance with a missive quietly communicated by the Kremlin instructing the PCP to lay low for the time being. Recent tactics interpreted by the Portuguese people as being unusually highhanded and repressive were also being closely observed by other West European countries who had just recently begun to accept a sizable headway by the Communist Party within their own boundaries.

France and Italy, two countries where the Communist Party has been making its most noticeable advances, were on the verge of acting to curtail the Communists' influence in their respective countries. The Kremlin apparently believed that an all-out war in Portugal would endanger the chances of communism throughout Europe at this time, and chose to play down their parties' influence in order to allay fears of a growing dictator-like Communist force within Western allied countries.

One theory has been advanced that, in fact, pro-Communist Prime Minister Vasco Goncalves may have been set up as a strawman without his knowledge, as an integral part of long-range Soviet plans. Since Goncalves has been known for a long time to be a political radical with a tendency toward terrorist tactics, it was inevitable that his term would not be a long one. Whereas under Azevedo the Communists now hold only one minor cabinet post, they also know that to take an active part in the Government today that is faced with an impending economic collapse and virtual riots in the streets, could only be fatal to the Communist Party. In fact, cabinet posts were recently turned down for this very same reason by both the Socialist and the Popular Democrat parties.

Very astutely, the Communists are waiting until the government breaks down totally, and the Portuguese people have fully identified the country's troubles with the ruling Revolutionary Council and its moderate and centrist ministers. Like a Trojan Horse, the Communists could then move in while the West is still in a state of artificially induced relaxation over the Portuguese situation, and with the help of massive economic aid from the Soviet Union and the hamstrung CIA, claim both the allegiance and the economic dependence of the Portuguese people.

America prides herself in being the "Land of the Free." How can we open our doors to the "tired, the poor, the huddled masses yearning to breathe free," while watching with open eyes one of our allies' gasps for her last breath of freedom.

If this country gives its tacit approval to such a blatant defiance of all of Russia's rhetoric about "détente," then the United States must resign herself to the position of being the No. 2 power in the eyes of the world. To let ourselves stand by while yet another country succumbs to communism will put us in the position of being the "helpless giant" our lopsided policies of détente have led us to.

America should immediately communicate our support of Prime Minister Azevedo's efforts to preserve a Portugal free of the Soviet Union, along with a demand for the immediate cessation of all Soviet military and economic support to the Portuguese Communist Party.

If the Soviet Union refuses such a request after its signing of the Helsinki accord, we must be prepared to take appropriate action in support of the anti-communist forces in Portugal.

Any country that proves her unwillingness to abide by her own word cannot be trusted. What happens next in Portugal may turn out to be the true test of détente.

A NATIONAL HEALTH POLICY PAPER: "THE IMPLICATIONS OF CHANGING PATTERNS OF ILLNESS ON OUR HEALTH SYSTEM"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HASTINGS) is recognized for 20 minutes.

Mr. HASTINGS. Mr. Speaker, on July 30, I spoke of the need to improve our ability to formulate and implement national health policies for the Nation. At that time, I pointed to the great need of reassessing our priorities between health and other efforts to improve our standard of living, as well as our priorities within the health industry itself.

One of the reasons for this conclusion was the apparent ineffectiveness of the health industry in improving the health of Americans. The evidence I cited at that time was the fact that crude death rates have not changed over the last 25 years despite the fact that health expenditures have increased from $12 billion in 1950 to a projected $116 billion in 1975. I think all of you would agree that such sweeping a statement deserves elaboration and qualification, both of which I plan to do today.

The three major measures of illness are mortality, morbidity, and disability. The most accurate of the three measures is mortality, although the causes of death are sometimes inaccurate either because of recording error or the difficulty of determining causes of death. Such data has been reported in the United States for over 100 years. Morbidity data is further classified into acute and chronic illness. Acute illness is defined by the National Center for Health Statistics as any condition lasting less than 3 months which requires either medical attention or results in restriction of activity. Chronic illness is defined as any illness of relatively long-term duration. In addition, certain diseases, by definition, such as arthritis, diabetes, or heart troubles are defined as chronic by the National Center for Health Statistics. Morbidity data, understandably, are not as accurate as mortality figures. Disability is defined as any condition causing a temporary or long-term reduction of a person's activity and resulting from an acute or chronic condition. I am going to discuss historical changes in all three.

MORTALITY

In 1900, the leading causes of death were first pneumonia and influenza, second tuberculosis, and third intestinal diseases. By 1940, pneumonia and influenza had dropped to the fifth leading cause of death, tuberculosis to seventh, and deaths from intestinal diseases had disappeared from the ten most frequent causes of death. The leading causes of death became heart disease, cancer and other malignant tumors, and cerebrovascular disease. These still rank as the top three causes of death in the United States today.

In 1900, the three leading causes of death were infectious and communicable diseases. The three leading causes of death by 1940, and still the leading causes today, are noninfectious disease, frequently referred to as chronic diseases or diseases of aging. More precisely, they might be considered diseases most prevalent for persons over 40.

The major change in death rates in the United States has been the dramatic reduction in deaths during the first year of life. In 1900, approximately 175 children per 1,000 live births died before they reached the age of one. Today, less than 20 children per 1,000 die during the same period. This is the major reason why the average life expectancy at birth increased from 47 years in 1900 to 71 years in 1970.

The decline in infant mortality has been continuous since 1900, although it is beginning to level off somewhat. The dramatic improvement in infant mortality has tended to mask another fact about mortality in the United States.

Whereas the life expectancy at birth increased by 24 years between 1900 and 1970, longevity increased only slightly more than 6 years once a person reached the age of 40 and only slightly more than 3 years once a person had reached age 65. The reason is cited by Alexander Leaf, a well-known medical teacher and clinician, in an article in the Scientific American:

> Little progress has been made in controlling the major causes of death in adults: heart disease, cancer, and stroke.

Another measure of change is the overall death rate per 1,000 persons. In 1900, the death rate per 1,000 persons was 17.2. In 1973, the rate was 9.4. The death rate has changed little over the past 25 years, ranging between 9.3 and 9.7 during the period from 1950 through 1973.

Overall crude death rates tend to mask changes within age groups and to make comparability between time periods difficult. This is because of changes in the age composition of populations at different points in time. According to the National Center for Health Statistics, the following changes occurred in age-adjusted death rates between 1960 and 1969:

> Between 1960 and 1969 there was an appreciable lowering of the death rates for persons 45 years and older. The largest decreases occurred for the age group 75–79 years (with a decrease of 8.3 percent) and 80–84 years (with a decrease of 14.0 percent).
>
> For the same period there were also decreases in the death rate for children under 15 years of age. The largest of these decreases

were for ages under 1 year (with a decrease of 20.3 percent) and for ages 1–4 years (with a decrease of 22.1 percent).

But the effect on the crude death rate for 1969 for these decreases in the death rates at both the beginning and later years of the lifespan was cancelled out in part by the even more marked increases in the death rates for persons in each 5-year age group from 15 years through 44 years.

The death rate for persons aged 10 to 24 increased from 106.3 per 100,000 in 1960 to 129.8 per 100,000 in 1969. For the age group 25 to 44, there was a 1-percent rise in the death rate from 225 per 100,000 to 238.5 per 100,000 persons in that age group.

Amidst all this discussion of rates it is useful to look at some numerical increases. For the period from 1950 through 1970, we find that deaths from cancer have increased from approximately 210,000 to 330,000. Deaths from heart disease increased from approximately 540,000 to 735,000. Deaths from accidents increased from approximately 91,000 to 115,000.

One of the encouraging signs has been a decline in mortality from heart disease, beginning in the early 1960's. For the period from 1962 through 1967, there was a decline in death rates among white males of 2.7 percent and among females, 6.8 percent. For the period from 1969 through 1973, there was a mortality decline of 4.9 percent among white men and a decline of 8.8 percent among white women. These data were reported by the Metropolitan Life Insurance Co.

What appears to emerge from these figures is a pattern of rapid improvement in the first half of this century, followed by a slowing down and leveling off of mortality indicators. Although we have made progress in medicine in the last 25 years, and some age groups have benefited to some degree, we must ask ourselves whether it has been a sufficient rationale for a tenfold increase in health care expenditures, and more importantly, whether we should continue to expand the health industry at the same rate as we have in the past.

MORBIDITY

Like mortality, there appears to be little relationship for our increases in health care spending and morbidity. The incidence of many diseases such as venereal disease continue to climb along with health care expenditures.

In 1974, reported syphilis cases reached a 23-year high of slightly over 84,000 cases.

Reported gonorrhea cases reached an all-time high in 1974 of over 899,000 cases.

Reported cases for both syphilis and gonorrhea are estimated to be less than half the cases actually occurring.

For the period between 1960 and 1974, there was a substantial jump in hepatitis from 42,000 reported cases to almost 60,000 reported cases per year.

There has been a substantial growth in the number of alcoholics in the United States. According to a report by the Congressional Research Service, there was a 1,500,000 increase in the number of alcoholics between 1955 and 1965. Noting that the precise number of alcoholics is unknown, the report estimated that there will be between 9,000,000 and 10,000,000 alcoholics in the United States by the end of 1975

However, there have been some improvements. For measles and polio, the 1960's saw remarkable progress due to the development of effective vaccines for both. In 1960, there were 441,000 cases of measles. In 1974, there were 22,000. Polio cases dropped from 3,200 to 7 in the same period.

Although these data represent trends in significant diseases, they do not represent the majority of illnesses contracted by man. About half of the acute conditions people experience are upper respiratory illness, the major number being colds and the flu. Roughly 15 percent of all acute conditions are caused by accidents, with injuries occurring in the home the major contributor.

The National Center for Health Statistics examined acute conditions for the years 1962 through 1969. They found the number of conditions per capita have remained remarkably constant during that period, not only overall but within the classifications of respiratory, infective, and parasitic, and digestive conditions, and injuries.

I have not discussed mental illness up to this point. Data on mental illness has not been gathered in any systematic manner and there are no useful data comparing the incidence of mental illness over time. Helen Avnet, in her book entitled Psychiatric Insurance, cited the reasons why:

> This is because there is no universally accepted standards of mental health, no consistent criteria to define mental illnesses. We do not know how much mental illness is diagnosed and treated under another name, either because it is not recognized as such, or to spare the patient's feelings, or to qualify the medical treatment as an insured service.

Current estimates, recognizing the limitation noted by Avnet, are that 10 percent of our population, or over 20 million persons, have some form of mental illness.

I am not aware of any estimates of change over time in the incidence of severity of mental illness, although there is clearly an increase in socially deviant behavior, such as crime, alcoholism, and drug abuse.

DISABILITY

Data is available from the National Center for Health Statistics since the period 1957–58 through the period 1969–70 on the limitation of activity due to chronic conditions. The data reported by the National Center shows almost no change from the earliest reporting period until the latest one. During the first period, 89.9 percent of the persons showed no limitation of activity from chronic conditions, while in the 1969–70 period, the figure was 88.3, a decrease of 1.6 percent. The extent of limitation experienced was also similar. Unlike the data on death rates, the information was not age adjusted for comparability purposes. In addition, I understand there were certain problems with comparability because of changes in survey techniques used in different survey periods.

Disability data comparisons show a slight overall decline between 1963–65 and 1969–70 in days of restricted activity caused by illness from 16 to 15 days per person per year, according to the National Center for Health Statistics. Bed disability and work loss also declined slightly during the same reporting period.

OBSERVATIONS

The information on mortality, morbidity, and disability I have presented today does show that we have achieved relatively insignificant improvements in our health over the last 25 years. Progress during the first 50 years of this century was far more substantial, judging from declines in mortality rates. By 1950, changes and improvements in the crude death rate had ceased and there appears to be little change in the incidence of acute and chronic conditions, or their impact in terms of limitations of activity. No one can deny that we have made progress in some areas. For example, vaccines have attributed to remarkable reductions in measles and polio. Recently, we have seen encouraging data on reductions in deaths from heart disease. But such progress has been minor.

I am aware that what I have said may be subject to the interpretation that there is little of value produced by the health industry. That is not true, as all of you are personally aware. Doctors and other professionals do relieve pain and suffering, limit disability, and in many cases, effect cures and prevent illness. What is nevertheless clear, is that we are not getting improved health for each additional dollar we spend for health services.

I think it is fair to conclude that, as Rene Dubos, one of the world's most respected authorities has said:

> Therapeutic medicine is probably now entering a phase of medically diminishing returns.

The information I have shows that we reached that stage some time ago.

Critics might argue that my position cannot be supported by evidence. If medicine is not the major determinant of health, then what is? This is a very difficult question, which puzzles experts and layman alike. John Dingle, writing in the "Scientific American" in 1973, noted that improvements in life expectancy and reduction in disease began in England before the etiology of disease was understood. It was begun by reformers who intuitively felt that better living conditions would contribute to health. They were right. Experts attribute improvements that continued through the first half of this century in the United States to improvements in environmental sanitation, better housing, and nutrition. They also acknowledge the contribution of vaccines, and antibiotics, and the use of certain other drugs. Dubos noted that man adapts to or develops effective responses to disease. In speaking of tuberculosis, Dubos stated:

> Evidence indicates that the virulence of tubercle bacilli has not changed; what has changed is the response of Western man to tuberculous infection.

Does the health industry play a useful role? Of course. Health workers apply the discoveries and developments of our

scientists such as vaccines and antibiotics, and transmit to patients useful new health information.

But health professionals will acknowledge their ineffectiveness in substantially reducing the incidence of heart disease and cancer because their understanding of the causes of these diseases is imperfect. Because they do know what causes cancers, for example, and because they therefore do not know how to cure them, scientists and physicians find themselves in the same position today relative to cancers that we were in regarding polio before the discovery of the Salk and Sabin vaccines. Only in the cases of cancers and heart diseases, the problems are far more difficult to solve.

The purpose of my remarks today are to support my earlier contention that more money for health, based on the performance of the health industry over the last 25 years, is not going to buy the American people better health. At the same time, I think it is possible for the Government and the private sectors to formulate policies and programs which will improve the health of the American people.

Such improvements will require greater attention to improvements in the environment, in our understanding of the causes and cures for the major diseases and illness afflicting the American people, and in the individual health practices.

At the same time as I am advocating reconsideration of our policies and investments within the health field, I think we also need to consider the importance of additional investments in the health field beside other priorities.

The evidence I have reviewed convinces me that we are suffering from a dangerous delusion if we believe we can achieve a near perfect state of health, if only we are willing to spend enough.

There is no scientific basis for such a conclusion, as many scientists have told us. We are already investing more of our gross national product for health than most other countries in the world. I think it is time we begin to put the search for better health in its proper perspective—recognizing we have other equally important national priorities—including the creation and wise use of energy, the protection of our environment, assuring an adequate food supply, attaining and sustaining a health economy, and the protection of our freedom. We may even be surprised to find that success in meeting our goals for these "nonhealth" priorities may be the best possible course for improving the health of the people in this country.

PAST ADMINISTRATION OF FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT BY DEPARTMENT OF AGRICULTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. JOHNSON) is recognized for 5 minutes.

Mr. JOHNSON of Colorado. Mr. Speaker, during recent weeks public comment has been made by private parties and governmental officials regarding the lack of activity of the United States Department of Agriculture when that Department was responsible for the administration of the Federal Insecticide, Fungicide, and Rodenticide Act of 1947. In general, these comments have been derogatory.

No one has bothered to point out that the Federal Insecticide, Fungicide, and Rodenticide Act that was administered by the Department of Agriculture and the one presently being administered by the Environmental Protection Agency are not the same. The act, as administered by Agriculture, was essentially a labeling law.

The Federal Environmental Pesticide Control Act of 1972 (Public Law 92–516) substituted a use classification and regulation scheme for the labeling scheme of the act administered by Agriculture. Under the new law the Environmental Protection Agency was given new authority to proceed against persons or individuals who engaged in the misuse of a pesticide(s) by applying them in a manner "inconsistent with their labeling." In addition, EPA could place pesticides in a "restricted use" category, making them subject to controls in distribution and use that were not possible under the older act. Federal authority was extended, by the new law, to cover all pesticides. Under the older act only those pesticides in interstate commerce were under Federal control. The new law for the first time required registration of pesticide-producing establishments as well as the keeping of specific records on production and sales. In addition to these authorities the new legislation made substantial amendments to the registration procedures, and the mechanisms for administrative hearings on refusals to register, changes in classification, suspension, and cancellation.

These changes in the provisions for the regulation of pesticides seem to have been overlooked by some.

During the period that the Department of Agriculture was responsible for the administration of the Federal Insecticide, Fungicide, and Rodenticide Act the Department issued a suspension order against the organic mercury containing products of the Nor–Am Agricultural Products, Inc. This case was heard in the appropriate courts and finally in the U.S. Court of Appeals for the Seventh Circuit which held that suspension orders were not judicially reviewable. The amended FIFRA now provides for judicial review in the court of appeals if the registrant, upon receiving notice of the administrator's intent to issue a suspension order, requests a hearing. This new provision is a direct result of the findings under the older regulation. The suspension order issued by the Department against the products of Nor–Am was upheld and the products removed from the market.

In January 1972, the U.S. Court of Appeals for the 10th Circuit reversed the injunction against the United States Department of Agriculture which had prohibited it from taking action to cancel certain pesticide products registered by the Pax Co. of Utah.

In a case between the environmental defense fund and Secretary Hardin, which was later transferred to the Environmental Defense Fund versus Administrator Ruckelshaus—when EPA assumed administration of FIFRA—the court found that "whenever there is a substantial question about the safety of a registered pesticide" initiation of cancellation proceedings should be undertaken. This was a sharp departure from the procedures that had been followed and allowed an entirely new approach to the cancellation proceedings.

These are some of the major differences between the administration of FIFRA by the Department of Agriculture and the Environmental Protection Agency. EPA is administering a different set of regulations. The Department of Agriculture worked cooperatively with Congress in the development of the amendments to FIFRA.

THE PROBLEMS OF THE ELDERLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BELL) is recognized for 15 minutes.

Mr. BELL. Mr. Speaker, today, I have introduced several bills focusing on specific problems that affect one very important segment of our population—the elderly.

In my many years in Congress, I have worked diligently to help our senior citizens. I am pleased to say that we in Congress have done much in recent years to assist the elderly; however, much remains to be done.

As ranking member of the Special Education Subcommittee of the House Education and Labor Committee, I was active in the recent formulation of a series of amendments to the Older American Act of 1965 that will provide greater assistance to our senior citizens in such areas as nutrition, home and legal services, transportation and age discrimination.

Another portion of the elderly population—those living in nursing homes—have been victimized by both deceptive and erring proprietors and overly complicated Federal machinery. Because of my concerns in this area, I joined many of my colleagues in sponsoring legislation aimed at correcting abuses in the nursing home industry. This legislation provides for grants to higher education geriatric departments, special services for those persons confined in nursing homes, and special provisions for home health care and delivery to the elderly.

There are, however, other areas of concern to me that I feel deserve special consideration by my colleagues. For this reason, I have introduced legislation pertaining to the areas of elderly crime prevention, property tax relief for the elderly, and a social security retirement test revision.

The first of these is a simple resolution requesting all Federal agencies that administer programs for older Americans to study the causes of crimes against these persons and to recommend programs to reduce the frequency of such crimes.

A recently released report of a survey

conducted by Louis Harris & Associates, "The Myth and Reality of Aging in America," indicated that the elderly rank "fear of crime" as the most serious problem confronting them. The 1971 White House Conference on Aging also recognized crime as a serious problem for the elderly and offered a series of recommendations to deal with such crime. However, at this time, no serious attention has been given to this problem at either the Federal or State level.

The impact of crime on our older Americans is indeed great. The senior citizen—especially the poor senior citizen—is one of the most vulnerable segments of our society. These people are more likely to be victimized repeatedly; they are more likely to be physically injured; they are more likely to live in high-crime neighborhoods.

However, we do not know enough about crime and its effects on the elderly. Traditional crime statistics do not adequately reflect this problem. The necessary data is just not being collected, yet we must learn to deal with this problem now. Consequently, I believe that those agencies in the Federal Government who administer aging programs have the additional responsibility to study the causes of crime against the elderly and recommend solutions to this problem.

Another bill I am introducing today would provide for the needed property tax and rent relief for older Americans. Between 1953 and 1972, the property tax burden rose slightly more than 50 percent. Those who have suffered the most from these increased taxes and increased rents are low-income persons—specifically the elderly.

The bill I am introducing today would allow a credit against Federal income taxes or a payment from the U.S. Treasury for State and local real property taxes, or an equivalent portion of rent paid on their residences, by individuals who have attained age 65.

My final companion measure would amend the Social Security Act by increasing the amount of outside earnings a person might earn before his benefits are reduced.

I believe that such relief is now necessary because of the current economic conditions of our country and the high cost of living. I recognize the problems that we are now having relative to the social security program; however, I do not feel that we should place any undue burden upon our senior citizens because of our bureaucratic inadequacies. Until such time that we can find an equitable solution to this problem, I strongly believe that we should provide some relief for the older American who is receiving social security benefits and still trying to maintain a decent standard of living.

The text of these measures follows:

H. RES. 783

Resolution to request Federal agencies administering programs for older Americans to study the causes of crimes against older Americans and to recommend programs to reduce the frequency of such crimes

Whereas older Americans, particularly those with lower incomes, are more likely to be victims of crimes than many other groups of citizens in the Nation;

Whereas the rate of personal larceny involving assault against older Americans is the highest in the Nation;

Whereas the fear of crime is the most serious problem affecting older Americans;

Whereas older Americans are more likely than any other group of citizens in the Nation to be victimized repeatedly by the same offender and, because of the lower incomes of many older Americans, to live in localities with high rates of crime;

Whereas one-half of those older Americans who are victims of crimes suffer physical injury as a result of such crimes; and

Whereas the 1971 White House Conference on Aging and the Administration on Aging have recognized crimes against older Americans as a serious national problem: Now therefore, be it

Resolved, That the House of Representatives requests each Federal agency which administers any program or activity relating to older Americans—

(1) to collect and publish statistics and other information with respect to the causes, types, and frequency of crimes against older Americans;

(2) to conduct studies designed to develop methods and programs to reduce the frequency of crimes against older Americans; and

(3) to transmit reports, no later than 6 months after the date of the adoption of this resolution, to appropriate committees of the House of Representatives containing recommendations for such legislative or other action as may be necessary with respect to the problem of crimes against older Americans.

H.R. 10124

A bill to allow a credit against Federal income taxes or a payment from the United States Treasury for State and local real property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by renumbering section 40 as 41, and by inserting after section 39 the following new section:

"SEC. 40. RESIDENTIAL REAL PROPERTY TAXES OR EQUIVALENT RENT PAID BY INDIVIDUALS WHO HAVE ATTAINED AGE 65.

"(a) GENERAL RULE.—In the case of an individual who has attained the age of 65 before the close of the taxable year, there shall be allowed as a credit against the tax imposed by this chapter the amount of real property taxes paid by him during the taxable year which were imposed by a State or political subdivision thereof on property owned and used by him as his principal residence, or the amount of rent constituting such taxes, as defined in subsection (c)(6). To the extent that the tax imposed by this chapter is less than such real property taxes, said individual shall be allowed a payment from the United States Treasury equal to the difference between the amount of the tax credit allowed and the amount of such real property taxes paid.

"(b) LIMITATIONS.—

"(1) IN GENERAL.—The total tax credit and payment from the Treasury under subsection (a) for any taxable year shall not exceed $300 ($150, in the case of a married individual filing a separate return).

"(2) ADJUSTED GROSS INCOME OVER $6,500.—The credit otherwise allowable under subsection (a) for any taxable year (determined with the application of paragraph (1)) shall be reduced by an amount equal to the amount by which the taxpayer's adjusted gross income for the taxable year exceeds $6,500 ($3,250, in the case of a married individual filing a separate return).

"(3) JOINT OWNERSHIP.—In the case of property owned and used by two or more individuals (other than a husband and wife) as their principal residence, the limitations provided by paragraphs (1) and (2) shall, under regulations prescribed by the Secretary or his delegate, be applied collectively to such individuals.

"(4) APPLICATION WITH OTHER CREDITS.—The credit under subsection (a) for any taxable year shall not exceed the tax imposed by this chapter reduced by the credits allowable under sections 33, 35, 37, and 38 for the taxable year.

"(c) SPECIAL RULES.—

"(1) HUSBAND AND WIFE.—In the case of a husband and wife who file a single return jointly under section 6013, the age requirement contained in subsection (a) shall, with respect to property owned jointly and used by them as their principal residence, be treated as satisfied if either spouse has attained the age of 65 before the close of the taxable year.

"(2) PROPERTY USED IN PART AS PRINCIPAL RESIDENCE.—In the case of property only a portion of which is used by the taxpayer as his principal residence, there shall be taken into account, for purposes of subsection (a), so much of the real property taxes paid by him on such property as is determined, under regulations prescribed by the Secretary or his delegate, to be attributable to the portion of such property so used by him. For purposes of this paragraph, in the case of a principal residence located on a farm, so much of the land comprising such farm as does not exceed 40 acres shall be treated as a part of such residence.

"(3) COOPERATIVE HOUSING.—For purposes of subsection (a), an individual who is a tenant-stockholder in a cooperative housing corporation (as defined in section 216(b))—

"(A) shall be treated as owning the house or apartment which he is entitled to occupy by reason of his ownership of stock in such corporation, and

"(B) shall be treated as having paid real property taxes during the taxable year equal to the portion of the deduction allowable to him under section 216(a) which represents such taxes paid or accrued by such corporation.

"(4) CHANGE OF PRINCIPAL RESIDENCE.—If during a taxable year a taxpayer changes his principal residence, subsection (a) shall apply only to that portion of the real property taxes or rent paid by him with respect to each such principal residence as is properly allocable to the period during which it is used by him as his principal residence.

"(5) SALE OR PURCHASE OF PRINCIPAL RESIDENCE.—If during a taxable year a taxpayer sells or purchases property used by him as his principal residence, subsection (a) shall apply only to the portion of the real property taxes with respect to such property as is treated as imposed on him under section 164(d), and, for purposes of subsection (a), the taxpayer shall be treated as having paid such taxes as are treated as paid by him under such section.

"(6) RENT CONSTITUTING PROPERTY TAXES.—The term 'rent constituting property taxes' means an amount equal to 25 percent of the rent paid during a taxable year by a taxpayer for the right to occupy his dwelling during that year, exclusive of any charges for utilities, services, furnishings, or appliances furnished by the landlord as a part of the rental agreement.

"(d) ADJUSTMENT FOR REFUNDS.—

"(1) IN GENERAL.—The amount of real property taxes paid by an individual during any taxable year shall be reduced by the amount of any refund of such taxes, whether or not received during the taxable year.

"(2) INTEREST.—In the case of an underpayment of the tax imposed by this chapter

for a taxable year resulting from the application of paragraph (1), no interest shall be assessed or collected on such underpayment if the amount thereof is paid within 60 days after the taxpayer receives the refund of real property taxes which caused such underpayment.

"(e) DEDUCTION NOT AFFECTED.—The credit allowed by subsection (a) shall not affect the deduction under section 164 for State and local real property taxes."

(b) The table of sections for such subpart A is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 40. Residential real property taxes or equivalent rent paid by individuals who have attained age 65.
"Sec. 41. Overpayments of tax."

(c) The amendments made by subsections (a) and (b) shall apply to taxable years beginning after the date of the enactment of this Act.

H.R. 10125

A bill to amend title II of the Social Security Act to increase to $4,200 the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (f)(3) of section 203 of the Social Security Act is amended by striking out "$200" and inserting in lieu thereof "$350".

(b) Subsections (f)(1), (f)(4)(B), and (h)(1)(A) of such section 203 are each amended by striking out "$200" and inserting in lieu thereof "$350".

SEC. 2. The amendments made by the first section of this Act shall be effective with respect to taxable years ending after the date of the enactment of this Act.

MANDATORY COMMODITY MARKET FOR OIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

Mr. FINDLEY. Mr. Speaker, it is hardly necessary to remind my colleagues of the current deadlock over energy policy and price decontrol of domestically produced oil. If this impasse is to be broken, a program must be found which will insure that the U.S. oil industry has the capability and incentive to expand domestic production, without making the industry a de facto member or beneficiary of the OPEC cartel. It is doubtful that any energy program which does not attempt to accomplish both of these goals will ever attract sufficient support to become law.

Today I am introducing legislation to accomplish both of these objectives by encouraging the normal competitive forces of the marketplace to work in the oil industry, rather than through government intervention and regulation, divestiture, or nationalization. This proposal relies upon the free market system to establish a fair price for oil. So far, the market has played little or no part in setting oil prices.

The proposal calls for the creation of a commodity market for crude oil, through which all domestic sales of crude oil would be required by law to be made. As you know, the American oil industry is dominated by "vertically integrated" companies, which are involved in all phases of the industry, from exploration and production to refining and marketing. This industry structure, which is typical of the major foreign as well as domestic oil companies, eliminates the role of competition in setting the price of crude oil. Instead of being sold by producers to refiners, most crude oil is simply transported by the producer to its own refinery and, after processing, to its own retail outlets. Foreign crude is priced by the political decisions of the OPEC cartel.

Since there is no competitive price for crude oil, decontrolling the price of domestic crude oil may well bring this oil under OPEC's price umbrella.

In addition, the vertically integrated oil companies' power arbitrarily to set prices for oil at intermediate stages of production has probably operated to the disadvantage of the independent sector of the industry, which must depend on the integrated "majors" for a significant portion of its basic raw materials; one can hardly expect a company which must rely on its competition for its supplies to be a wholly effective competitor. It is this fact which created the necessity for the complicated "entitlement" program by which the majors have been required to share their supplies of price-controlled crude oil with the independent refiners.

If controls on domestic crude were simply lifted, one of two things would happen: First, the price of this oil would rise to the OPEC price, or second, the price would rise, but to a level below the OPEC price. If the former were to take place, the majors would in effect become partners in the OPEC cartel. If the latter occurred, demands for continuation of the present Government program dividing available supplies of lower priced domestic crude would be strong indeed. Neither alternative is acceptable from a political or economic standpoint. Dilemmas of this kind have undoubtedly contributed to the inability of the administration and the Congress to agree on an energy program, despite the universal recognition of the necessity of such a program.

A mandatory commodity market for crude oil could prove to be a practical and effective remedy for these difficult problems, one which could attract the bipartisan support necessary to bring it about. Channeling domestic sales of crude oil through a commodity market would have the following effects:

First. The price of oil would be determined by competitive forces in the market, rather than by OPEC, the private decisions of the major oil companies, or by the Federal Government;

Second. The independent sector of the oil industry would have free access to crude oil on the same basis as its integrated competitors;

Third. By including sales of imported crude oil, this country would obtain some badly needed leverage over the OPEC cartel; and

Fourth. The information generated by the operation of such a market would permit much more informed public scrutiny of the oil industry's performance than is presently possible.

Since the totality of the competitive forces present in the marketplace would determine the price of oil, our scarce energy resources would be allocated by the market to their most efficient uses, and inefficient and wasteful consumption would be discouraged.

I have been assured by the professional staff of the Commodity Futures Trading Commission that this proposal is technically and operationally feasible. There seems to be no question that it would work. The precise form which such a commodity market should take is still unclear. At my request, the Commodity Futures Trading Commission has undertaken a thorough analysis. It may be that it is not necessary to mandate that 100 percent of all sales be conducted in such a market in order to achieve the desired effect. On the other hand, it may be found desirable to include first sales of refined petroleum products in the mandatory market in addition to crude oil sales.

The mandatory commodity market for petroleum is not only a logical, effective, and comprehensive plan for accomplishing many of the objectives of national energy policy, it also maximizes reliance on the discipline of the free market system and minimizes interference by Government. It could attract the bipartisan support which so far has been sorely lacking and which will be essential to any energy policy. I believe it merits each Members serious consideration.

This proposal first came to my attention last year when I read an article in the Washington Post by a Washington attorney, Allan Hoffman. Mr. Hoffman urged the mandatory market, basing it on his experience in the Antitrust Division of the Justice Department.

Text of bill follows:

H.R. 10131

A bill to to establish a mandatory commodity market for crude oil

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That six months after the effective date of this Act all sales of domestically produced crude oil and crude oil sold for use or resale within the United States shall be made through a commodity exchange by auction pursuant to rules and regulations promulgated by the President and under the supervision of the Commodity Futures Trading Commission.

INTERNATIONAL ECONOMICS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. TALCOTT) is recognized for 10 minutes.

Mr. TALCOTT. Mr. Speaker, during the past few years a number of factors have resulted in new and far-reaching imbalances in international economics.

The United States is in a unique situation. Depending, on the one hand, on a sizable percentage of its petroleum requirements coming from high-priced imports while on the other hand, being favorably endowed with a sizable surplus of agricultural products that are in short supply in other parts of the world.

The solutions to these two vexing problems proposed so far could result in high-

er prices to American consumers of both gasoline and bread.

However, there is an alternate solution which I believe will defiate the pressures that force higher prices for gasoline and bread. In addition, it would cause no adverse impact on our balance of payments.

This solution is embodied in a bill (H.R. 10110) which I have introduced in the House of Representatives. My proposal would prohibit the export of grain to any petroleum-producing country which has petroleum production in excess of its domestic requirements—except pursuant to an agreement providing for the exchange of such grain for petroleum.

In principle, my proposal would call on the American grain exporters to negotiate the sale of petroleum to American refineries at a predetermined price. The grain exporters would negotiate a barter agreement to exchange grain for oil. The net result would be that the American grain exporters would receive U.S. dollars from U.S. refiners. The U.S. refiners would receive oil from American grain dealers. U.S. dollars would not leave the country. Quite possibly, the cost per barrel of oil would be lower than the cost per barrel the United States must pay at present.

There will be those who will say my proposal is too hardnosed; to those I reply that it is about time we address the problem confronting our Nation in a hardnosed manner.

For too long we have dispersed our largess to all corners of the Earth without considering the impact of these actions on the American economy.

Let me set out some of the things my proposal will do and some of the things it will not do.

It will enable American grain exports to be handled through normal commercial channels.

It will enable our refiners to purchase oil from our grain exporters.

Because our refiners will pay our grain exporters dollars for the oil, the grain exporters will receive payment in U.S. currency.

Because these dollars will not leave the United States, there will be a salutory impact on our balance of payments.

Because prices for the grain and petroleum will be prevailing prices, this transaction will not force prices for these commodities to rise—thus relieving the pressure of higher costs to American consumers for products utilizing grain as well as heating oil, gasoline, and other energy uses.

It will not adversely affect other industrial nations because these oil producing countries will have ample excess production to meet their needs.

It will not require a new government bureaucracy because the Commerce Department is presently equipped to review these contracts.

It will not discriminate against independent refiners because the grain exporters can negotiate contracts for the oil with any American refiners.

It will not discriminate against any petroleum exporting country because it can sell its excess petroleum above the amount it exchanges for grain.

It will not limit the amount of grain a country can buy because they are permitted to buy additional grain for hard currency if their requirements exceed their surplus petroleum.

In summary, my proposal will provide a realistic approach to the disposition of our excess agricultural products and, at the same time, partially alleviate the short-fall in domestic petroleum production until such a time as a long-range program is developed for energy self-sufficiency in our country.

REPORT OF EUROPEAN TRIP OF CERTAIN MEMBERS OF THE SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION, REGULATION, AND INSURANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WYLIE) is recognized for 30 minutes.

Mr. WYLIE. Mr. Speaker, the purpose of the trip was to study international banking activities of branches and subsidiaries of U.S. banks and to discuss foreign bank operations in the United States.

The problem reared its ugly head with a major failure of the New York branch of a Lebanese bank in 1967 which caused Senator JAVITS to introduce a bill to regulate foreign branching in the United States.

Congressman WRIGHT PATMAN also introduced a bill in 1967 and again in 1969 which would apply the laws applicable to U.S. national banks to foreign branches. Not much interest was generated in the bill in 1969. There was no real concern because the number of branches of foreign banks in the United States was small. The total assets of foreign banks in the United States in 1967 was $7 billion. But today foreign banks' assets in the United States total more than $50 billion.

By 1973 there was a substantial amount of foreign bank activity in the United States. The Patman bill was introduced again and would treat foreign branches as national banks. Then the Federal Reserve Board became concerned and in 1974 recommended a bill which would treat foreign branches as member banks. Because of the enormous activities in banking and security dealings already undertaken by foreign banks, the Federal Reserve bill provided a grandfather clause for foreign banks already in existence in the United States. Congressman TOM REES of California recently recommended a bill which would phase out all nonbank related activity by foreign banks over a 10-year period.

OUTLINE OF MEETINGS

With this backdrop, certain members of the Subcommittee on Financial Institutions Supervision, Regulation, and Insurance undertook a fact-finding trip to Europe. Our first stop was London where we visited with Mr. James E Ammerman, Financial Attaché to the American Embassy, and Mr. Bill Wisner, the Embassy Officer in Charge of the Political Section. At 10:30 a.m., on the 4th, our group had a meeting at the Bank of England with Mr. George Blunden, Senior Official in Charge of Foreign Bank Regulations; Mr. John Kirbyshire, Senior Adviser to the Bank of England; Mr. Gill, Assistant Chief of Banking, Monetary, Marketing Supervisors; Mr. D. A. H. Byatt, Adviser, Cashier's Department; and Mr. A. T. Bell, Adviser, Overseas Department.

At 11:30, we met with Mr. Cathles from National Westminster Bank, Mr. Seeley from Barclays Bank, Mr. Ryder from Midland Bank, Mr. Davies, the deputy secretary of Lloyds Bank, and Mr. Murphy, vice president and executive head of Schroder Wagg & Co.

At 1 o'clock Members of Congress had lunch with certain Members of the House of Commons hosted by the Honorable Roger Moate, Conservative Member from Faversham and Honorary Secretary of the British American Parliamentary Group. Other Members of Parliament attending were the Honorable Roland Moyle from Lewisham East, Minister of State for Northern Ireland, the Honorable Eric Deakins from Walthampton, Under Secretary of State at the Department of Trade; the Honorable David Howell, Conservative Member from Guildford, Minister of State for Energy and other posts in the Conservative Government; the Honorable Norman Lamont, merchant banker, Secretary of the Conservative Finance Committee, Conservative from Kingston upon Thames; the Honorable Michael Cocks, Labor Government pairing whip; and the Honorable David Stoddart, Member of the Labor Party from Swinton. Congressman MATTHEW J. RINALDO, Congressman GILLIS W. LONG and Mrs. Long, Congressman JERRY M. PATTERSON, Congresswoman LINDY BOGGS, Mrs. Wylie, and I were among those in attendance at the luncheon. That evening the group attended a reception hosted by U.S. Ambassador and Mrs. Elliot Richardson at the Ambassador's residence in London.

On Tuesday, August 5 at 9:30 a.m., our group met with officials of the Bank of America. Mr. Alvin C. Rice, executive vice president and executive head of the division for Europe, the Middle East, and Africa, met us along with Mr. Paul Vergungt, second vice president and head of the money market and foreign exchange operations for the division; Mr. Dick Puz, second vice president and head of credit operations for the division; and Mr. Dave Yelton, second vice president, head of the United Kingdom division. We discussed at considerable length the mechanism by which branches of American banks provide foreign exchange through the Eurocurrency market to facilitate the activities of American and foreign firms. This meeting broke up shortly after noon.

On Wednesday, August 6, we had a briefing at the Embassy in Paris with Mr. Rizick, Assistant Treasurer in the Political Section in Paris; Mr. Schubert Dyche, Control Officer; and other financial attachés to the American Embassy in Paris.

That afternoon we met with officials of Morgan Guaranty Bank at the Paris branch. The participants in the meeting were Mr. Jean-Louis Masurel, vice president and general manager; Mr. Paul Caron, vice president for general bank-

ing; Mr. Jean-Paul Glenisson, vice president and senior lending officer; and Mr. Marcel Malenfant, comptroller. At 5 we met with Mr. Denis de Cazotte, the chief executive officer at the Pittsburgh National Bank branch in Paris.

On Thursday, August 7, we had a meeting with officials of the Bank of France. We met with Mr. Gabriel Le Fort, Director General, Foreign Department of the Bank of France; Mr. Fanet, Inspection Service Officer of Financial Banking Institutions, Supervision Section of the Bank of France; Mr. M. J. Medrano, Deputy Director, Regulation Section; Mr. T. R. Aubanel, Deputy Director of Credit Exchange; Mr. Y.R.E.N. Brunel, Deputy Director, Officer of Foreign Relations; and Mr. Breton, Director, General Foreign Relations.

On Friday, August 8, we journeyed to West Berlin where we first had a briefing at the U.S. Mission with U.S. Minister Scott George, Chief of the Mission of West Berlin; and 1st Lt. Michael E. Fankell, U.S. Army, Commander's Office.

After the briefing at the U.S. Mission, we met with German Bank Supervisory Authorities and Bundesbank Officials. Present at the meeting were Dr. Guenter Duerre, President of the Bundesaufsichtsamt fuer das Kreditwesen, Frau Dr. Baehre Herr Mayer, Mr. Beham and Mr. Zoths; and Dr. Weber and Mr. Fitzenriter of the Deutsche Bundesbank.

On Saturday from 5 to 6 o'clock we attended a reception hosted by U.S. Ambassador and Mrs. John Sherman Cooper at the Ambassador's residence in East Berlin.

On Monday, August 11, we met with officials of the Continental Illinois Bank in Frankfurt. Participants in the meeting were Mr. George Conrad, Manager of the Branch; Mr. Thomas Dowen, Jr., Vice President and Senior Officer for Europe; Mr. Maurice Jacques, Vice President, Head of Foreign Exchange Operations (London); and Mr. Edzard Hermberg, U.S. Treasury Attache, Embassy in Bonn.

On Tuesday, August 12, we met with the Swiss Banking Commission, officials of the Swiss National Bank, and other representatives of the Swiss Government. Members from the Swiss Banking Commission included Dr. Albert Matter, President; Dr. H. Bodenmann, State Counselor and Vice President; Dr. Duri Capual, Member; Mr. A. Rousselet, Member; Dr. D. Bodmer, Director of the Secretariat; Mr. J. B. Schuster, Deputy Director, Administrative Assistant, and General Director of the Swiss National Bank; and Dr. Thappel. From the Swiss National Bank, present were Mr. A. Hay, General Director; Dr. de Rivaz, Director; and Dr. P. Gutzwiller, Legal Adviser. Present from the Federal Political Department were Mr. E. Thurnheer, Specialist, and Mr. E. Fetscherin, Specialist. And attending the meeting from the Federal Finance and Customs Department were Mr. B. Muller, Vice Director, and Dr. M. Boehringer.

A SUMMARY OF THE PRINCIPAL ISSUES

The enormity of the problem of defining reciprocity in international banking and the questions raised by legislative proposals which would regulate foreign branch bank activity in the United States were brought forcibly home by our meetings with the people mentioned above. Out of the 20 largest banks in the world only 4 are U.S. banks. The three largest are Bank of America, First National City, and Chase Manhattan. Four of the largest banks are Japanese, four are German, four are United Kingdom banks, three are French, and one is Canadian. Additionally, we were told at the London meeting that there are more American banks operating in the city of London than there are domestic banks in New York City.

To sum up, I think it is fair to say that the officials we talked with would accept the foreign bank bill proposed by the Federal Reserve Board which would include membership in the Federal Reserve System and compliance with its reserve requirements. One of the significant questions which remains unanswered is whether the Federal Reserve System would then become the lender of last resort for the foreign branches in the United States. At the meeting in the United Kingdom, I asked the question of Mr. John Kirbyshire as to whether the Federal Reserve Board or the Federal Deposit Insurance Corporation should cover deposit losses in U.S. branch banks in foreign countries. I mentioned I had in mind questions relating to deposit runoffs at the London branch of Franklin National Bank. Mr. Kirbyshire said it was his opinion that in order to maintain the integrity of the U.S. banking system and, indeed, the U.S. Government, some U.S. Government agency should use funds to bail out foreign depositors.

Recently Mr. John Kirbyshire came to the United States as a delegate to the International Monetary Fund meeting and brought to my office a written response to my question. Mr. Kirbyshire felt that in any legislation regulating the operation of foreign branches in the United States, consideration should be given to some form of reciprocity on the issue of lender of last resort. It would be politically impossible for the Bank of England to be the lender of last resort to a U.S. branch in the United Kingdom, for example. The United Kingdom representatives suggested that foreign branches of U.S. banks be included in the Federal Deposit Insurance Corporation program, but at the same time, pointed out that the United Kingdom has no comparable agency. He suggested that foreign banks in the United States should become members of the Federal Reserve System and perhaps members of the FDIC. Another advantage for a foreign bank becoming a member of the Federal Reserve System would be that it would have access to the discount window in time of a credit crunch.

European banking authorities said they could tolerate the bill suggested by the Federal Reserve Board but that they were opposed to the bill which would require foreign banks to choose one state in which they would confine their operations and divest their nonbank related activities within 10 years. The consensus of opinion was somewhat surprising in view of the fact that there is such a variance in the laws which govern foreign bank operations in the countries we visited. In the United Kingdom, the banks are regulated more or less by informal agreement. The Bank of England has no legislative or rulemaking power. There is no legislative definition of what constitutes banking. In Switzerland on the other hand, the legislation regulating foreign banks is very specific and provides for strict reciprocity. Reciprocity for the foreign branches of U.S. banks is based on laws and regulations of individual States of the United States in which the banks are incorporated rather than Federal law.

The general attitude of the French bank officials seemed to be one of maintaining a liberal licensing policy for the establishment of branches and subsidiaries both on their part and ours. There is no difficulty in establishing an American branch bank in France, and they do not feel there should be any difficulty in establishing a branch of a French bank in the United States. They feel that the laws are adequate and take a laissez-faire attitude—"What you do with your laws is up to you."

The German officials with whom we met were violently opposed to the Rees bill. They appear to be apprehensive about U.S. banks in Germany allowing extensive domestic credit. The Germans feel they have the best banking system in the world now, that they have taken the best of the American system and improved on it.

The Swiss have great concern about any Federal legislation which would affect the Swiss foreign banks functioning in the United States. They indicated that if legislation is passed affecting the Swiss foreign banks in the States, reaction would be swift and sure; and a reciprocity law would be passed immediately. It should be noted that only one member of Swiss Banking Commission is a banker.

We found the Europeans do not always understand our system of government. They are more familiar with the parliamentary system which does not provide for a separation of powers. When new activities evolve within the international financial system, there is always a question as to how much authority or discretion the Federal Reserve Board should have and the extent to which it is appropriate for Congress to impose new guidelines. In our system there is a requirement for legislative action. When monetary or fiscal problems arise in the United Kingdom or other countries with a parlimentary system, the central bank carries out the policies of the Treasury. These are the policies of the party in control of both executive and legislative branches of government. If the policy of the Treasury is being questioned in the House of Commons, the policy will be that of the majority party in that body. Any change in policy will reflect the position of the government in power.

The Bank of England restricts the inflow and outflow of domestic currency and how much can be borrowed from overseas. This is also true of the Bank of France, the Central Bank of West Germany, and the Swiss Central Bank. In the case of France, Germany, and Switzerland, there is more concern about

inflows of currencies. Switzerland is concerned about inflows of Swiss francs. Foreign deposits of Swiss francs are taxed 40 percent over 50,000. The British regulate sterling operations. Germany regulates inflows of all currencies by restricting interest payments on nonresident deposits. In France a bank has to get permission directly to lend or borrow where a nonresident is involved. In the case of a resident of France, if he borrows from outside, for instance, from the U.S.A., he has to get permission.

The central banks we visited seem to approach bank regulation on a "gentleman's agreement" basis. Banking laws in Switzerland are quite specific and strict in some areas but not as comprehensive as in the United States.

All countries are concerned about our passing a reciprocity law on foreign bank operations in the United States. Switzerland is the only country which now has a reciprocity law. As noted above, the Swiss go to the law of the state where the bank is incorporated when granting the privilege of branching. [New York has a liberal law; its banks are getting the best treatment.]

The Federal Reserve has not taken action in any way comparable to action taken by European central banks to reduce the inflow and outflow of funds from Eurocurrency markets. One of the reasons is the structure of the system which is not as homogenous as European systems.

In the course of these discussions we covered a number of other topics of interest to members of the subcommittee and learned of some of the policies and concerns of other governments. We found, for instance, that the Germans were concerned about retail banking or buying on credit. The Germans pay cash for most small items. Central bank officials are afraid extensive credit would harm the whole economy and increase inflationary pressures. The Germans have a real fear of inflation. Their unemployment rate is 5.5 percent. They have never had any wage and price controls and take the position that wage and price controls are bound to failure from the beginning. Their inflation rate is about 6 percent and going down. Interest rates on mortgages in Germany are 8½ to 9 percent and the prime rate of interest is 5 percent.

The national debt in Switzerland is about $2.6 billion which is 6 percent of 1 year's Federal spending. The Swiss vote on any new program; any new tax must be voted on by the people. The income tax rate is 16 percent, so they have a very different situation than we do. There are only 6½ million people in Switzerland.

The British have a substantial public debt. So do the Germans, but it is not comparable to ours. German officials said it will be reduced substantially this year. The French have no public debt. The word is, however, that they will run a deficit before the end of this year because of the emergency with reference to inflation.

All in all the trip was most educational and pointed up the difficulties we in Congress face in this area. The real and imagined worries of foreign bank competition and how we respond will certainly have its effects on how other countries treat U.S. banks in their countries.

During the meetings, I and others in the delegation, took extensive notes. My notes were intended for my own use. However, to give some indication of the actual discussions which took place, I am including the notes taken in London with this report. I have not attempted to develop this material further because, as I stated, the notes were intended for my own use and are in rough form. Also, notes taken by staff members are being collated and edited and will form the basis for a more extensive report.

INFORMATION GATHERED FROM MEETINGS IN THE UNITED KINGDOM

Relations between the United States and United Kingdom are the best since World War II. The United Kingdom's main problem is inflation. Unemployment is also a problem. The Labor Party is dependent on the labor unions. If the Labor Party wants to stay in power it will have to crack down on labor union wage demands. If the Labor Party does crack down on wage demands it risks alienating the trade unions and falling from power.

The United Kingdom suffers from home grown inflation. From May 1974 to 1975 the following events occurred:

a. Wage increases got out of hand;

b. A 25-percent increase in C.P.I.;

c. A 5-percent increase in cost of raw materials;

d. A 32-percent wage increase;

e. A minus 8-percent increase in industrial production;

f. A 3.7 percent unemployment rate up from 2.8 percent;

g. The pound sterling dropped from $2.60 on August 4 went down to $2.09 for 1 day.

The Government has imposed a limitation on employers on wage increases. The issue of wage and price controls is before the Parliament.

There is a 35-percent base tax rate. The United Kingdom authorities tax 83 percent for over 20,000 pounds in earnings. That is 2½ times the rate in the United States and five times the Swiss rate.

BANKING REGULATIONS

In the United Kingdom regulations are informal by agreement. The Bank of England has no legislative or rulemaking power. There is no legislative definition of what constitutes banking.

Supervision is very flexible and informal. There is careful supervision of discount and acceptance houses—trade credit.

The Bank of England's philosophy is that it does not know best. It consults on a daily basis with the five large banks.

There are over 300 foreign banks in the United Kingdom. The year 1973 saw the collapse of the property market. In 1974 there were several foreign bank failures. There were no bank failures among major foreign banks. Some domestic fringe banks failed.

The Bank of England increased its professional supervisory staff from 4 to 7 and its support staff for this area from 15 to 30. The United Kingdom has no FDIC. They use the "life boat" rescue method for a bank in trouble.

The difference between foreign and domestic banking is defined by law. So-called fringe banks do no foreign trade, they do consumer finance, small loan and money lending. The United Kingdom does have building societies which do mortgage lending.

I think it is fair to say that interest rate regulation in the United Kingdom is done by a cartel arrangement among the five large banks. Housing mortgages are of the variable rate variety.

Our discussions mainly were with Mr. George Blunden, senior official in charge of foreign operations with the Bank of England, and Mr. John Kirbyshire, senior adviser for the Bank of England. These gentlemen discussed the requirements for the establishment of foreign branches in the United Kingdom. The requirements are minimal. It is easy to start a foreign bank. It is difficult to conduct domestic banking.

To conduct foreign exchange operations, it is necessary to receive what is called authorized status. Branches of foreign banks will not compete for domestic business; they just do not do it. The foreign branches do not accept domestic deposits by general agreement. If a foreign branch engages in business beyond a certain minimum, it must put up reserves. Eurocurrency operations are covered by minimum reserve requirements. The collapse of the property market was primarily caused by the failure of fringe banks. The clearinghouse banks set up a rescue operation. Four billion pounds were pumped into the market.

Since these failures, all banks are examined quarterly. An American bank which has a branch in the United Kingdom is regarded as a British bank for examination purposes. Each of the five clearinghouse banks is examined yearly.

I asked the question as to what would happen if branches of American banks with the assistance of Congress or a regulatory agency were to force the issue of domestic banking, in effect saying: If your branches are free to do domestic business in the United States, why shouldn't American banks be free to do domestic business in the United Kingdom? Mr. Blunden answered that the reason was for monetary control and that the Central Bank has a wonderful working relationship with American banks and has developed the understanding that they simply will not engage in domestic deposit business.

Because the banking system in the United Kingdom is subject to no legal restraints, a bank can do almost anything. The examinations are flexible, personal, progressive, and participatory. When a bank is in trouble, the Bank of England becomes the lender of last resort. For example, money was sent to Lloyds of Switzerland when it developed financial trouble due to foreign exchange losses. An analogy was drawn to this situation and to the failure of Franklin National where the Federal Reserve Board "bailed out" the customers. The FDIC has announced that it has no legal obligation to insure foreign branch customers and it will not accept such a burden

again. I asked Mr. Kirbyshire why the U.S. taxpayer should "pick up the tab" for the failure of a foreign branch involving customers who are not nationals and where the examination procedure does not afford an opportunity to maintain close surveillance over the bank's operations. There was a rather lengthy discussion but, to sum up, the answer was the United States should assume the obligation to maintain the integrity of the United States and its role in international banking. It was suggested by Mr. Blunden that we ought to consider requiring FDIC insurance on foreign branches. There is the additional problem of nonbanking related activities under the holding company umbrella in the United Kingdom. Mr. Blunden is the Chairman of the Blunden Commission which is working on uniform regulation and reciprocity in the common market countries. The Commission is attempting to obtain a written understanding of what role a country would play when the foreign branch of one of its national banks fails.

It was pointed out that nonbanking activities are not permitted under the holding company umbrella in the United States any longer. Whereupon, Mr. Ryder of Midland Bank said that, in his opinion, without a grandfather clause, prohibiting nonbanking related activities by banks would be expropriation of property without due process of the law which is unconstitutional under the U.S. Constitution. He felt the 10-year divestiture idea was not enough time, and there is just no way to compensate a bank holding company for its loss under such a bill.

Mr. Murphy of Schroders said that he felt there was no justification for the Glass-Steagall Act in today's banking world. Mr. Blunden, Mr. Kirbyshire, representatives of the four United Kingdom national banks present, and American representatives of foreign branches were all basically against any legislation regulating foreign branch banking activities in the United States because of the fear of unfavorable reciprocity. They just did not want the One Bank Holding Company Act to apply to them.

We next met with Alvin C. Rice, Executive Vice President and Executive Head of the Europe, Middle East, and Africa Division of the Bank of America and other officials of the Bank who rather summed up the significance of the American branch banking operations in Europe.

Bank of America is quite satisfied to see its foreign profits at less than 50 percent. Last year foreign profits amounted to 49 percent of its total profits. Bank of America expanded its operations in Europe to the Middle East and Africa to gain additional access to the Eurocurrency market. The foreign exchange operation is only incidental to doing business with bank customers. Bank of America has several Edge Act corporations. Most of their foreign banking business is wholesale banking. Wholesale banking is generally in the neighborhood of $50 million per loan. Bank of America does little sterling business and no securities underwriting business except for the convenience of a bank customer. The direction of the flow of funds is toward San Francisco. Privacy so far has not been a problem with the Bank of England.

It was Mr. Rice's understanding that the Treasury Department, the Federal Reserve, and the State Department worked on the so-called Fed bill to regulate foreign banks in the United States. There is anxiety among the operators of foreign branches of U.S. banks that they could be hurt by reciprocity if the Fed Bill or any similar bill is passed by Congress. Mr. Rice expressed the feeling that it would be better to let domestic banks do what foreign banks do in the United States. Sixty to seventy percent of the lending of the Bank of America in Europe goes to non-American companies. While the prime rate in the United States was 7½ percent, it was 9½ percent in the United Kingdom, 5 percent in West Germany, and 3½ percent in Switzerland. Bank of America does not deal in money per se. So it does not try to take advantage of arbitrage but rather it makes every effort to equalize the price differential in currencies.

I asked the question as to whether political pressure has been brought to bear on the Bank of America because of FDIC Chairman Frank Wille's stand on letters of credit with reference to the failure of U.S. National Bank of San Diego. Alvin Rice said he thought Frank Wille is right and that although the subject had been brought up by officials of the Bank of England, no particular political pressure had been brought to bear. A letter of credit is a mutual trust arrangement which does not really involve the U.S. Government except as to the American banks' stability. It was mentioned that the English banks were very emphatic in believing that the U.S. Government should make good on the letters of credit. Alvin Rice said that since the Penn Central failure, the letters of credit market is more than a "name" market.

Mr. ST GERMAIN raised the question as to whether Congress should have copies of reports made by foreign branches to the parent company and gave his own views in the affirmative.

I asked the question about the "Fed" bill and the Rees bill on foreign branching. Mr. Rice expressed the opinion that they would not like to contemplate the possibility of reciprocity as they were thinking of opening a branch in Geneva, and reciprocity would surely follow in Switzerland. I asked Alvin Rice about the so-called Credit Uses Reporting Act and characterized it as ludicrous. Alvin Rice thought it was ludicrous, too.

As a footnote, the rate on home mortgages was 16 percent on that date in London.

As mentioned earlier, Mr. John Kirbyshire, senior adviser to the Bank of England, met with me in my office and expanded upon his earlier response to my question concerning the duty of central banks to come to the assistance of foreign depositers in a failing bank. The full text of Mr. Kirbyshire's expanded response follows:

THE CENTRAL BANK'S LENDER OF LAST RESORT FUNCTION AND ITS INTERNATIONAL APPLICATION

(By John Kirbyshire, Senior Advisor to the Bank of England)

Following the alarms and excursions of the summer of 1974, the central banks of the main Western countries have had a good deal of discussion among themselves of the division of responsibility for helping banks in temporary liquidity difficulties—to use the jargon, the international application of the lender of last resort principle. While no final agreement has been reached all the participants in the discussion have felt that support for a commercial bank's liquidity problems should be forthcoming whether the problem arises from domestic or foreign operations. We believe that it is both helpful and necessary that monetary authorities' responsibilities should be clearly defined in this way, but we are well aware of the possible political problems for some authorities if a bank were to get into difficulties because of the operations of a foreign branch or subsidiary or, as in the Franklin case, because of its foreign exchange operations. This was a point which you raised when you called at the Bank recently with some other members of the House's Sub-Committee on Financial Institutions. You mentioned the likelihood of criticism if Government agencies used funds "to bail out foreign depositors".

Not only is this a very real point of difficulty in itself but it is also an aspect of a wider problem affecting the international economic system as a whole. For all countries, and for the U.S. in particular—because of its relatively small foreign economic sector, an accurate assessment of the costs and benefits of the international activities of financial and non-financial corporations is as necessary as it is difficult to make. It is usually easier to quantify the costs than the benefits.

It is with these considerations in mind that I thought that it might be useful to set out our thinking on the point you raised more fully than we were able to do orally.

If we set the discussion in terms of U.S. banks—although it could apply equally to others—it seems to us that to question the need to assist foreign depositors in certain circumstances is to pose two more fundamental questions:

(i) what benefit does the foreign banking business of U.S. banks bring to the U.S.?; and

(ii) would it matter, except to those immediately concerned, if a bank were allowed to default on its foreign obligations?

Both these questions raise wide issues concerning the benefits to be derived from broad and comprehensive financial markets through which trading and investment transactions can be financed smoothly and efficiently. There is room for different opinions about the scale and precise nature of these benefits, but few would deny that the growth of international trade and commerce—which benefits all the participants—would have been impeded if the financial mechanisms had been less efficient. It is perhaps worth recalling that, by and large, the banks who have substantially increased their foreign business have done so in response to the needs of domestic customers desiring to expand internationally.

As well as such broad international considerations, there are domestic advantages to be considered. The foreign operations of (say) U.S. banks attract deposits which can be channelled into U.S. financial markets and add to the resources which the bank concerned has available for domestic as well as for foreign customers. Direct deposits of overseas funds with the large commercial banks amount at present to nearly $20 bn.—i.e., some 5 percent of their total deposits.

Over and above this, substantial funds are channelled back to the parents by overseas branches at particular times. Nor should the profits on overseas business be overlooked at a time when the strengthening of banks' capital resources is so necessary; for some banks, foreign branches alone account for 7-10 percent of total earnings. No doubt this proportion would drop substantially if large U.S. banks had greater opportunities for expansion within the U.S., although even then it seems doubtful whether the absolute size of their foreign operations would diminish.

When one considers the second question—whether it would matter all that much if the foreign depositors in a failing bank were not protected—one is really looking at the obverse of the factors already mentioned. It has been amply demonstrated that the failure of one bank which is important in international markets can, if not carefully handled, have widespread effects throughout those markets. The problems spread outwards from purely banking considerations to affect not only the volume of foreign trade and investment which can be financed but also to impinge upon the scale of activity in domestic financial markets and hence in the domestic economy. It would be a mistake, too, to think that the effects of a refusal by the authorities to support the foreign deposits in one failing bank—in our example a U.S. bank—could be confined to that particular bank.

Almost certainly U.S. banks as a group, irrespective of their individual soundness, would be faced with withdrawals of foreign funds which could very well strain their resources. As holders tried to divest themselves of dollars, there could also be implications for the dollar exchange rate and thus for costs and prices in the United States.

Given the close inter-relationship between banks' domestic and foreign operations, a refusal of the monetary authorities in a particular country to support the foreign deposits in a failing bank, simply because they are foreign, could have wide implications for that country's banks, for its financial markets and, probably, for economic conditions more generally. In short, the argument for not discriminating against foreign depositors is much the same as the argument in favour of helping domestic depositors in appropriate circumstances.

August 27, 1975.

STRINGENT CONTROLS ON FEDERAL SPENDING ARE NEEDED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Nebraska (Mrs. SMITH) is recognized for 5 minutes.

Mrs. SMITH of Nebraska. Mr. Speaker, I am today introducing a concurrent resolution designed to place the Congress squarely on record in support of President Ford's proposed $395 billion spending limit for fiscal year 1977.

Mr. Speaker, I believe President Ford has correctly read the mood of the American people in recommending his tax- and spending-reduction proposal. He knows, as they do, of the enormous tax burden the American people have been asked to bear, and he has recommended long-term and far-reaching reductions in that burden in order to permit the individual American citizen to regain greater control over the product of his labors.

I know the people of Nebraska's Third District would welcome a major and permanent tax reduction every bit as much as people all over the country. But I also know that they recognize that a reduction of the magnitude recommended is both self-defeating and dangerous to our economy if it is not accompanied by stringent controls on Federal spending.

President Ford recognizes this, too, and for that reason has challenged the Congress to tie to the tax cut a spending limitation for fiscal year 1977 of $395 billion.

I would like to make clear right now that my support for the tax cut will be wholly dependent on a similar reduction in proposed Federal spending. The figure the President has recommended is $28 billion; reduce taxes by $28 billion and hold Federal spending to $395 billion—$28 billion less than it would be if no ceiling were placed on spending next year.

But, Mr. Speaker, this ceiling the President proposes is no miserly amount, either. In fact, I consider it much too high. In fact, it is a whopping $28 billion more than the congressional target for the current fiscal year, and even this limit will no doubt produce another budget deficit.

However, to allow spending to rise even higher and at the same time cut Federal revenues by another $28 billion would be the height of fiscal irresponsibility.

It is for that reason that I have introduced this concurrent resolution. If adopted by the Congress it will let the American people know that we intend to act responsibly; that we recognize the importance of easing the tax burden on the American people and accept the discipline that a spending limitation would impose on us.

Mr. Speaker, this spending limit is a goal we can reach and we must reach if we are ever to halt the inflationary spiral which has caused so much havoc in our economy in recent years.

SMALL BUSINESS SURVIVAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 5 minutes.

Mr. WHALEN. Mr. Speaker, in times of economic hardship, it is often difficult for small businesses to survive. Since these firms are a vital part of our society, it is heartening to know that there are those who are willing to devote their time and energies to help struggling entrepreneurs to keep their feet on the ground. Of particular note is the Service Corps of Retired Executives—SCORE, a volunteer organization sponsored by the Small Business Administration.

I would especially like to pay tribute to the Dayton Chapter 107 of SCORE. Under the outstanding leadership of its chairman, Mr. William B. Fischoff, this group has provided invaluable counseling and educational services to small business operators in Ohio's Third Congressional District. Dayton SCORE's primary emphasis is on person-to-person consultation rather than academic training sessions and seminars. The members provided the benefit of their business management experience to executives experiencing problems in either initiating or operating their firms. They are assigned to clients as advisers to examine problems and to help implement solutions. SCORE volunteers receive no financial remuneration for their services. Their only reward is the satisfaction of knowing that their experience can help others succeed.

In only 15 months the Dayton chapter of SCORE has grown from a 4-member group to an operation of 19 advisers. The number of businessmen who have benefited from their services has increased by over 900 percent. Several of the chapter's members have received Certificates of Achievement from the office of SBA's region 5, which includes the States of Minnesota, Wisconsin, Michigan, Illinois, Indiana, and Ohio. Mr. Harold Berry, an active member and former chairman of Dayton SCORE, was recently appointed to the Internal Revenue Service's Small Business Advisory Committee by the Commissioner of the IRS. Dayton SCORE has also been nationally recognized for a unique program of communication.

Mr. Speaker, the Service Corps of Retired Executives is dedicated to the concept of "people helping people." These unselfish and talented volunteers have contributed a great deal to our free enterprise system by helping small businessmen help themselves. They deserve our commendation.

CHICAGO'S 1975 COLUMBUS DAY PARADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on Monday, October 13, the people of the city of Chicago will celebrate the discovery of America by Christopher Columbus in our traditional grand style with a gigantic parade on State Street. The extravaganza will be televised live by WGN-TV.

The theme for this year's parade will be "From the American Revolution to the Present—the Contributions of the Italians." Americans of Italian descent have made enormous and lasting contributions to the greatness and strength of the United States and three generals and one admiral, representing each of the four American military services, will be the guests of honor in the 1975 parade. These four dedicated men are descendents of Italian immigrants to this country and are part of the new-world tradition of determination, hard work, and courage begun by Christopher Columbus and carried forward by Italians who followed him to build a new life in the New World.

Rear Adm. Lucien Capone, Jr., graduated from the U.S. Naval Academy in 1949 and spent the next 5 years as a junior officer in destroyers of the Atlantic Fleet. Rear Admiral Capone's career includes service as the commanding officer on the U.S.S. *Hammerberg*, the U.S.S. *Dahlgren*, and the U.S.S. *Richmond K. Turner*, and he is now the Deputy Director, National Military Command System Technical Support, Defense Communication Agency, Washington, D.C., a position he has held since June 1974.

Army Brig. Gen. T. B. Mancinelli is currently the Director of the Personnel Information Systems Directorate of the U.S. Army's Military Personnel Center in Alexandria, Va. General Mancinelli served in Vietnam and holds the Bronze Star Medal, the Legion of Merit Medal, the Joint Service Commendation Medal, and the Army Commendation Medal.

Marine Brig. Gen. Francis W. Tief, whose maternal grandparents were born in Potenza, near Naples, Italy, is Assistant Division Commander, 2d Marine Division, Camp Lejeune, N.C. General Tief participated in combat operations in Korea as a tank platoon commander and a company commander with the Seventh Marines. He was awarded the Silver Star Medal for action in Korea and the Navy Commendation Medal for his service in Vietnam.

Maj. Gen. Ralph J. Maglione is Director, Legislative Liaison, Office of the Secretary of the Air Force in Washington, D.C. General Maglione flew 104 combat missions during his service in Korea and in 1956 he set an overwater distance record for single-engine fighter aircraft when he flew his F–83F nonstop from Sturgate, England, to Austin, Tex. He was also Commander/Leader of the U.S. Air Force Thunderbirds from 1965 to 1967 and during those years the aerial demonstration team performed throughout the world.

These four outstanding Italian-Americans have indeed followed the vision and unshakeable faith of Christopher Columbus. Their participation in Chicago's Columbus Day parade as guests of honor will lift the spirits of all Chicagoans as they enjoy this tremendous patriotic event.

Monday's Columbus Day celebration will begin with a concelebrated Mass at Our Lady of Pompeii Church at 9 a.m. Auxiliary Bishop Alfred L. Abramowicz, D.D., will preside, and the concelebrants will include Rev. Umberto Rizzi, C.S., Provincial of the Scalabrini Fathers; Rev. Monsignor Edward Pellicore, Rev. Angelo Calandra, C.S., Rev. Lawrence Cozzi, C.S., Rev. Angelo Garbin, and Rev. Leonard H. Mattei, who will give the homily.

Following the Mass, there will be a Laying of the Wreath Ceremony across the street at the Columbus Statue in Arrigo Park, and at 3:30 p.m., following the parade, the Order of Sons of Italy in America will lay a wreath at the Columbus Statue in Grant Park.

Chicago's monumental Columbus Day parade will step off from the corner of State Street and Wacker Drive at 1 p.m. and will include 61 floats depicting the theme of the parade and approximately 80 bands and marching groups. Authentic native costumes of Italy will be worn by participants in the parade in addition to costumes portraying various periods of American history from the Revolution to the present. Christopher Columbus, the father of all immigrants, will be portrayed by Jim Sabatino, 2005 North 72d Court in Elmwood Park, who is a member of the Young Adults Division of the Joint Civic Committee of Italian Americans.

In addition to our four honored guests, the parade will be led by the Honorable Richard J. Daley, mayor of Chicago; Congressman FRANK ANNUNZIO, honorary parade chairman; the Honorable Dan Walker, Governor of Illinois; Dr. Alvaro V. Beltrani, the distinguished Consul General of Italy in Chicago; Anthony Fornelli, president of the Joint Civic Committee; Pasquale M. De Marco, parade grand marshal; Joseph Lizzadro, Jr., parade general chairman, 1975; and many other political dignitaries, civic leaders, members of the judiciary, businessmen from the community and labor leaders.

Each year the Joint Civic Committee of Italian Americans, comprised of more than 40 Italo-American civic organizations in the Chicagoland area, sponsors the Columbus Day Parade and other related activities. Many local groups cooperate with the Joint Civic Committee in this communitywide tribute to Columbus, and Anthony Sorrentino, consultant for the Joint Civic Committee, has helped to coordinate the various activities of the parade for many years.

One of the highlights of Chicago's Columbus Day celebration is the selection of the queen of the parade. This year, one of my constituents from the 11th Congressional District I am honored to represent, Celeste Del Guidice, 6319 West Warwick, was chosen to reign as queen of the Columbus Day Parade. I extend to Miss Del Guidice my heartiest congratulations on this honor.

Judged on her beauty, poise, and personality, Celeste Del Guidice, as winner of the Columbus Day Queen Contest, received a round trip to New York City from the Daprata Travel Service; a weekend trip to Las Vegas from the Nick Nitti Travel Agency, $100 from Mr. Joseph Lizzadro, Jr., the Parade's General Chairman for 1975; an Air Style hair dryer from Mr. Joseph Pope; jewelry donated by Mr. John Lizzadro, Mr. Ron Valentine of Vista Jewelers, and Mrs. Josephine Bianco and Anita Louise Bianco, who are cochairmen and special assistant for the Queen Contest; a $25 gift certificate from Marilyn Miglen Make-Up Artists; and a memento donated by Mr. Fred Mazzei, the chairman of the Queen Contest.

The queen is also making appearances on the Mary Jane Hayes Show, the Ray Rayner Show, the Louis Farina Show, the A.M. Show, the Bob Del Giorno Show, all on Chicago TV and radio.

The members of the Queen's Court are first runner-up Marilyn Levatino, 2800 Lake Shore Drive, Chicago; second runner-up Genevieve Battisto, 1805 South Cuyler Avenue, Berwyn; third runner-up Louise Storino, 6141 South Fairfield Avenue, Chicago; and fourth runner-up Catherine Battaglia, 5658 South Mason Avenue, Chicago.

Judges for the final Columbus Day Queen Contest were the Honorable Philip Romiti, judge of Cook County circuit court; Mary Jane Hayes, hostess for the Channel 2 TV program "It's Worth Knowing;" Don Case, a public relations and advertising executive; Franz Benteler, a violinist; Bob Del Giorno, a disc jockey for radio station WIND; and Theresa Petrone, Area "C" Delegate to the PTA Board of Education.

On October 5, some 200 persons participated in a fashion show, a "Festa Della Moda," held at the Hyatt Regency O'Hare Hotel. This is one of the highlights of the Columbus Day festivities and the men, women, and children participating dress in traditional handmade costumes representing the culture native to various areas of the Italian peninsula. Dr. Mary Ellen Batinich, chairman, and her committee outdid themselves again and, along with Chairman Lawrence Spallitta and the float personnel committee members, they can all be proud of their contribution to the success and beauty of the Columbus Day extravaganza.

The colorful and distinctive costumes, worn by the people who made them by hand, will be an enormous contribution to the parade's ethnic flavor and one of those "special touches" which make an event memorable.

The Columbus Day Parade in Chicago is one of the highlights of the year and over 750,000 people will view the parade in person and over 1 million will view it on television. The parade will be sponsored over WGN–TV by Anthony Paterno, of the Pacific Wine Co.; Dominick Di Matteo, of Dominick's Finer Foods; Frank Armanetti, of Armanetti Liquor Stores; and the Banco di Roma. The telecast of the parade will be narrated by Domenick Di Frisco and Vince Lloyd, and the reviewing stand commentators will be Bob Del Giorno and Lou Farina.

The massive Columbus Day celebration will close with a reception at the Chateau Royale, 5743 West Chicago Avenue, in honor of all of the guests, the officers, subcommittee chairmen, and members who participated in making this grand event a success.

As Honorary Parade Chairman on this sixth celebration of Columbus Day as a national holiday, I commend the members and officers of the Joint Civic Committee of Italian Americans for their dedication, careful planning, and hard work that went into the creation of a tremendous civic and patriotic event such as the Chicago Columbus Day Parade. Our city and our people are proud of these outstanding citizens.

Mr. Speaker, the officers and members of the 1974 Chicago Columbus Day Parade Committee are as follows:

CHICAGO COLUMBUS DAY PARADE COMMITTEE

HONORARY PARADE CHAIRMEN

Mayor Richard J. Daley
Congressman Frank Annunzio

GENERAL CHAIRMAN 1975

Joseph Lizzadro, Jr.

GRAND MARSHAL

Pasquale M. De Marco

JOINT CIVIC COMMITTEE OF ITALIAN AMERICANS

OFFICERS

Anthony J. Fornelli, President
Dr. James F. Greco, 1st Vice President
James E. Coli, 2nd Vice President
John C. Porcelli, 3rd Vice President
Joseph Tolitano, 4th Vice President
Jerome Zurla, 5th Vice President
Joseph DeLetto, Treasurer (Deceased)
Charles Carosella, Secretary

SUBCOMMITTEES

Chaplain: Reverend Armando Pierini, C.S.

Television and Radio Sponsors: Anthony

Paterno, Chairman; Frank Armanetti; and Dominick DiMatteo.

Finance and Souvenir Book: Joseph DeLetto, Chairman (deceased); Frank N. Catrambone, Sr., Co-Chairman; Sam Cerniglia, Co-Chairman; Mrs. Serafina Ferrara, Co-Chairman (deceased); Mathew J. Alagna; Anthony Apa; Charles Carosella; Hon. John D'Arco, Jr.; Joseph Fusco; Peter Lavorata; Marino Mazzei; Michael R. Rosinia; George Salerno; and Joseph Scilabra.

Religious Program & Organizations: Josephine DeSerto, Chairman; Louis Moretti, Co-Chairman; Rev. Armando Pierini, C.S. Advisor; Chief Anthony Pilas; and John Spatuzza.

Bands, Marchers & Transportation: Louis H. Rago, Chairman; Dr. James F. Greco, Chairman Emeritus; Jordan Canzone.

Program & Arrangements: Domenick Difrisco, Chairman; Louis Farina; Dr. Joseph H. Dileonarde; Mrs. Theresa Petrone; Mrs. Marie Palello; Mrs. Ann Sorrentino; Joseph Bianco; Anthony Sulla; and Jerome Zurla.

Queen Contest: Fred Mazzei, Chairman; Mrs. Josephine Bianco, Co-Chairman; Ms. Anita Louise Bianco, Special Assistant; Domenick Difrisco, Advisor; Sam Bruno, Photographer; Joseph Caliendo; Ms. Mary Jane DeRosa; Steve Fiorentino; Mike Galgano; Anthony Morizzo; Mrs. Marie Palello; and Jerome Zurla.

Business & Professional: Carl DeMoon, Chairman; Anthony Terlato, Co-Chairman; Vincent Lucania, Co-Chairman; Jack Cerone; James L. Coli; Charles P. DeVito; Dominick P. Dolci; Peter Ingraffia; Albert Litterio; Dr. Frank Motto; John Paterno; Paul Paterno; Lawrence X. Pusateri; Louis Ranieri; Judge Philip Romiti; Dr. Joseph J. Sirchio; Peter Tatooles; and Amedeo Yelmini.

Parade Marshals: Marco DeStefano, Chairman; Alex Batinich; Ettore Divito; Neil Francis; Michael Palese; Chief Anthony Pilas; Ronald Marra; and Frank J. Tomaso.

Floats: Tom Ardino, Chairman; Sam J. Coco, Co-Chairman; Carlo D'Amico; Edward S. Fusek; Frank Vechiola; and Joseph Pope.

Float Personnel: Lawrence Spallitta, Chairman; Nick Bianco; Michael Galgano; Mrs. Carol Ann Lopez; Joseph Pantaleo; Mrs. Mary Spallitta; and Domenick Zagone.

Authentic Italian Costumes: Dr. Mary Ellen (Mancina) Batinich, Chairman; Mrs. Millie DeSerto, Co-Chairman; Mrs. Tena, Amico; Mrs. Norma Battisti; Mrs. Stella Boschelli; Mrs. Gene Bruno; Mrs. Maryann Cervi; Mrs. Elena Frigoletti; Mrs. Rose Galluzzo; Mrs. Jennie Giampa; Mrs. Judith Guzaldo; Mrs. Barbara Intihar; Mrs. Mary Mento; Mrs. Ann Parisi; Mrs. Marie Pedi; Mrs. Annette Salvatore; Mrs. Mary Spallitta; Mrs. Phyllis Schoene; Mrs. Aurelia Tornabene; Mrs. Angeline Tufano; and Mrs. Ann Yelmini.

Cuisine & Culture: Mrs. Ann Sorrentino, Chairman; Mario Avignone; Rudolph Leone; and Mrs. Eugenia Wells.

Labor: James E. Coli, Chairman; Thomas Siracusa; Edward Coco; John Serpico; Angelo Fosco; John Parise; and Joseph Spingola.

Public Officials: Hon. Alexander Adduci; Hon. Frank Belmonte; Hon. Elmer Conti; Hon. John D'Arco; Hon. Lawrence DiPrima; Hon. Louis Garippo; Hon. Frank Giglio; Hon. Anthony Laurino; Hon. Vito Marzullo; Hon. Lawrence Petta; Hon. Paul Ross; and Hon. Martin Russo.

WOMEN'S DIVISION

Mrs. Gene Bruno, Chairman.

WEST SUBURBAN CHAPTER, WOMEN'S DIVISION

Mrs. Louise DeBartolo, Chairman.

YOUNG ADULTS DIVISION

Mike Galgano, Chairman.

A NATIONAL DEVELOPMENT BANK: THE ANSWER TO FEDERAL RESERVE MISTAKES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PATMAN) is recognized for 30 minutes.

Mr. PATMAN. Mr. Speaker, the Nation's State and local governments once again are confronted with an approaching crisis in terms of being able to finance the construction of urgently needed public works and facilities.

Once again, State and local units of government are finding it extremely difficult to market long-term debt instruments to finance construction of schools, health clinics, pollution control facilities, and similar public works on terms which they can afford.

Earlier this week, the Fairfax County, Va., supervisors were forced to sell $2.9 million in school bonds at a record high tax-free interest rate of 7.05 percent.

Alexandria, Va., had to pay 6.19 percent to borrow $19.6 million in the bond market, and Prince George County, Va., is paying 6.19 percent on a $27 million bond issue. Both these tax-free interest rates are also record highs for these local governments.

This situation is being duplicated throughout the Nation.

Mr. Speaker, the high interest rate circumstances prevailing in the State and municipal bond market cannot be explained away by simply pointing to the uncertainty produced by the fiscal problems of New York City and New York State.

The Federal Reserve Board's monetary policies have much greater overall importance. The Board's restrictive monetary policies are pushing interest rates higher throughout the entire financial system of the Nation.

This is exemplified by the fact that the Board's policies have utterly failed to compensate for the massive Federal borrowing that is taking place in the open market.

As a result, State and local governments again are finding themselves having to pay intolerable interest rates to finance urgently needed public works and facilities. Some of the details in today's picture are new, but in an overall sense, this is an old and needlessly recurring story which can best be described as financial strangulation for priority areas of our economy.

It goes without saying that the situation extends beyond the State and local government bond market. Soaring interest rates on open market debt instruments are again draining deposits away from savings and loan associations and mutual savings banks, the institutions which provide the bulk of the credit for the Nation's home buying families. Thus, another blow is being dealt our crippled housing industry.

Mr. Speaker, these painfully recurring circumstances again clearly point to the need for establishment of a vehicle which will dampen the effect of the Federal Reserve's continual inability to implement and maintain monetary policies establishing and maintaining a stable economy.

In my judgment, one of the best approaches to this problem is the establishment of a national bank which would be authorized and directed to purchase and to guarantee the obligations of State and local governments as well as provide direct loans on reasonable terms for low- and moderate-income family housing and small- and medium-sized businesses—the three areas of the economy which gyrating Federal Reserve monetary policies strike first and longest. H.R. 1955, which I have introduced would achieve this purpose.

It goes without saying that a National Development Bank must be designed to restrict the assistance it would provide only to those who are credit worthy but cannot obtain needed funds on reasonable terms in any other way. Under these conditions, New York City would not qualify unless specific conditions were met to place its fiscal house in order.

But aside from that important point, the existence of a National Development Bank would mean that creditworthy State and local government borrowers, plagued by the uncertainties instilled in the municipal bond market from any source could turn to a lender of last resort.

A National Development Bank would provide a beneficial influence far beyond its ability to make direct loans through the purchase of State and local government debt obligations and to guarantee those obligations issued for sale in the open market. The mere fact that a National Development Bank could stand ready to help creditworthy State and local government borrowers would tend to create acceptance of their debt obligations on the most reasonable of terms even without direct intervention by such a bank.

The National Development Bank I am advocating could be patterned after the Reconstruction Finance Corporation which played a major role in restoring the Nation's economy during the Great Depression and marshaling the economic tools necessary to guard the Nation's industry for the all-out effort required by World War II. The bank should be capitalized at a level which would give it the stature needed to be effective. For example, it should be authorized to issue a total of $2 billion worth of stock subscribed to by the Treasury and purchased in amounts and at time the bank considers necessary to fulfill its purpose. Maximum indebtedness of the bank would be 20 times the amount of its paid-in capital. The bank would also be empowered to issue federally guaranteed obligations for sale in the open market so that it would not have to rely exclusively on tax funds. It could establish offices on a regional basis throughout the Nation and fully promote awareness of its existence and the services which it could provide to State and local government and other priority area borrowers.

THE ENERGY INDEPENDENCE AUTHORITY: THE WRONG WAY TO SOLVE OUR ENERGY PROBLEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 15 minutes.

Mr. LAFALCE. Mr. Speaker, I rise today to sound a note of warning about the Ford-Rockefeller proposal to establish a Federal Energy Independence Authority—EIA—and provide it with some $100 billion in funds to participate in the energy research and development efforts of the Nation during the next decade. Important as this issue is, and crucial as is the need to move forward rapidly with research and development, this proposed approach to carrying out these efforts warrants, in my judgment, a quick and decent burial.

I believe that this proposal raises a number of very important issues which must be addressed as we decide how to implement national energy research and development policies. Among the issues are the following:

Accountability of Federal agencies to the President and to Congress;

Financial and budgetary honesty versus "off-budget" legerdemain;

How and when to engage in public-private "partnerships"; and

Whether or not Congress and the executive should keep energy near the top of the agenda during the next decade.

Before we endorse an ambiguous "plan" to create an agency, endow it with $100 billion to use for relatively unspecified purposes, and give it the independence apparently desired by the administration so it can, in effect, go away and come back 10 years from now with its "solution" to the problem, we should take a careful look at a number of things.

PUBLIC AUTHORITIES—GENERALLY

Public authorities—essentially publicly owned corporate bodies—are not particularly new. Originally this concept was used to finance, construct and manage a revenue-producing public facility, such as a toll bridge, tunnel or highway. In theory the revenues produced by the facility would be enough to maintain the facility and to repay the funds which were borrowed by the authority for its construction. Once the borrowings were repaid the authority would cease to exist and the tolls would be removed.

But in this century, particularly during and since the Great Depression, governments at all levels have found it increasingly more difficult to meet the demand for public and publicly assisted facilities from the normal capital budget process. To help meet the need a number of governments turned to the public authority concept and adapted it in ways not foreseen by its creators.

Thus was born the large, multipurpose authority. These agencies did not finance, construct and manage only one facility; they became involved in many. And the theoretical lifetime of these authorities was infinite as revenues from earlier facilities were pledged toward borrowings for later projects. The idea that ultimately the tolls or other charges would be reduced or eliminated was put aside, for the leverage which could be obtained by pledging those revenues against additional borrowing was more important.

The best example of this kind of large, multipurpose authority at the Federal level is the Tennessee Valley Authority, one of the largest and most successful ever devised. Yet the most pervasive and comprehensive use of the concept occurred at the State level—in New York.

PUBLIC AUTHORITIES IN NEW YORK STATE

Most of you have heard of Robert Moses, America's closest comparison to a "Masterbuilder." Moses' mind conceived very large—and very expensive—projects, but he was no dreamer. He was perhaps the most adept public official there ever was at taking plans from the dream stage to actual construction. He did not just build, he found the money and, when necessary, created the governmental machinery with which to raise and spend the money. He would use any technique possible, but one of his favorites was the public authority.

Prior to Moses, New York had had a few small authorities set up and operating along the lines of the original concept. After nearly 40 years during which Moses was a force to be reckoned with in State and city government, there were almost 40 public authorities with regional or Statewide jurisdiction. Almost all of them were multipurpose-type authorities; the largest of them, including the Triborough Bridge and Tunnel Authority and the State Power Authority, regularly reported financial dealings in the billions of dollars. Robert Moses created and controlled both of these authorities—at the same time.

If there is one man, however, who has a claim to having put the authority concept to even more innovative use than Moses, that man is our current Vice President, NELSON ROCKEFELLER. Inasmuch as Mr. ROCKEFELLER is credited with devising the proposed Energy Independence Authority, it is relevant to review what he did at the State level during his 15 years as Governor of New York.

THE ROCKEFELLER ERA IN NEW YORK

Governor ROCKEFELLER's first few years in office—phase I—was the "pay-as-you-go" period. Renouncing almost all credit approaches to financing State needs, even capital needs, his administration went beyond even a traditional American family's approach to finance—almost all of us have a mortgage on our home. He forsake using borrowing authority which had been approved by the State's voters at referendum, refusing to use bonding authority which would have provided funds at an interest rate which would make most of us green with envy today—less than 3 percent.

But NELSON ROCKFELLER's background—one of his first jobs was to supervise the development of Rockefeller Center in Manhattan; he was also intimately involved in putting together the arrangements for the site for the United Nations headquarters—and the growing demand for capital facilities in the State, brought about the demise of the "pay-as-you-go" philosophy. Phase II—the big plans period—commenced.

ROCKEFELLER came up with financing approaches which were immensely intricate and new, and he also used older techniques to an extent unprecedented in the past. One was called the "moral obligation bond." This was used to make the bonds of an authority marketable when the projects the authority was designed to develop themselves did not give adequate collateral to support investor confidence in the bonds. So these bonds were given the "moral backing" of the State, even though the debt represented by the bonds had not been approved by the voters and, by the late sixties and early seventies, far exceeded the voter-approved constitutional debt of the State.

This was an "off-budget" gimmick which circumvented the State constitution's prohibition against excessive borrowing.

Arthur Levitt, who was reelected last year to his sixth term as New York State Comptroller, has had the opportunity to study this situation longer and in more depth than anyone. He has consistently pointed out the risks of using the authority concept to excess, and particularly the "hidden debt" created by use of the "moral obligation" approach. His reports in recent years are illuminating.

In January of 1973 Levitt titled a report "The Debt-Like Commitments of the State of New York." His choice of words itself is of interest. He found that the State's full faith and credit—that is, voter-approved "constitutional" debt—was less than $3.4 billion. But the "off-budget" debt of the authorities and similar agencies came to over $5.6 billion, over 60 percent of New York's total potential liability.

When times were good the risk seemed minimal. The authorities' bonds were selling; investors were confident. But ours is, after all, a cyclical economy. The recent downturn, more severe than most, brought the crunch to New York's financial house of cards.

The New York State Urban Development Corporation, one of ROCKEFELLER's "pet" agencies which had, indeed, accomplished a good deal since its creation in 1968, was one of the "moral obligation" authorities, and a big one. Already suffering from the moratorium on Federal housing subsidies, the economic climate was the last straw and the inherent weakness of the "moral obligation" technique was exposed for all to see.

The State had to back UDC up when investors refused to purchase more bonds. And, given the additional uncertainties in the municipal bond market caused by the New York City crisis, it is not unlikely that additional State support for a number of the authorities will have to follow. The chicken has come home to roost.

FEDERAL OFF-BUDGET AGENCIES

The Federal Government has not been totally true to the idea that Government or Government-backed financing should be reflected in the budget. There are a number of Federal agencies, federally sponsored private institutions, and Federal programs which guarantee private borrowing which are not reflected in the budget. Yet, according to the Congres-

sional Research Service, they have a large impact on the Nation's financial markets.

The debt created by these agencies and programs—which totalled $25.5 billion in fiscal year 1973—is not subject to the statutory debt limitation even though this federally backed debt can and does achieve priority status in the credit market because of the Federal backing.

Use of the "off-budget" concept at the Federal level began very recently, in 1971, when the Export-Import Bank was excluded from the budget. Since then a number of other agencies, including the Postal Service, have been removed.

The growth of the use of this off-budget concept since it began in 1971 has been huge—some 271 percent—versus a 16-percent increase in the unified budget—in terms of outlays from fiscal year 1971 to fiscal year 1974. A number of concerns arise over this practice.

HIDDEN DEFICITS

The Congressional Research Service estimated that if the operations of the "off-budget" agencies and programs had been included in the unified budget during fiscal year 1974 the announced deficit of $3.5 billion would have been $20.9 billion. In other words, $17.4 billion in debt for which the Federal Government is ultimately responsible was created that year outside the debt ceiling. Not a lot, perhaps, given the size of the national debt. But the first use of this technique in New York was not particularly significant either.

Congress has enacted new budget procedures designed to insure that we are completely aware of the ramifications of our actions in approving appropriations bills. Should we not be aware of everything that has an effect on our budget situation—anything which can add to the actual Federal deficit, as these off-budget agencies have been shown to do?

CREDIT ALLOCATION

Perhaps even more significant than the fact that these agencies and programs can affect the Federal deficit is the impact they make on the credit markets of the Nation. I quote from the Congressional Research Service's report on these agencies and programs:

> Much of the growth of federal borrowing has occurred in order to operate credit programs which provide credit to groups which either could not otherwise obtain it, or could not get it at a reasonable price. This was done for what was deemed socially, politically or economically desirable purposes which the private sector could not accomplish at an acceptable cost. Therefore, over the years a host of federal credit programs has grown up to serve a variety of groups. The result to a significant degree is an allocation by the federal government of a large portion of the nation's credit with no clear, publicly debated overall strategy.

To be sure, many of the programs set up to use the credit-worthiness of the Federal Government are very important to the social fabric. And it is equally clear that in many of these instances the normal operations of the private sector would exclude or severely limit the access of these worthwhile activities to funds.

I have no particular problem with the concept of extending the power of the Federal Government to useful programs which cannot raise needed funds alone, Mr. Speaker. But I do feel that Congress owes it to itself and to the Nation to know what it is doing when it sets up programs of this kind and to know what effect it will have, individually and as part of a large group of such programs, on the credit markets of the country. For there is a national interest in preserving the stability of those markets, and there is also a national interest, perhaps slightly less compelling, to try to make sure that all causes have at least some access to the market. Our free enterprise system, after all, is based on the concept that open competition for support will result in the best products and services for the lowest costs.

THE POTENTIAL IMPACT OF THE ENERGY INDEPENDENCE AUTHORITY

Everyone in Washington is aware, I believe, of the importance of dealing with the energy issue during the coming years. We have a long way to go to even approach energy independence, a goal which warrants being pursued not only because of the international political situation but also because, in coming generations, the world's energy supply system itself will have to undergo radical transformation as we run out of fossil fuels.

In the short run we will have to reduce consumption and try to find ways to spread the hardships which may occur in doing that. We will have to make major policy decisions about our energy research and development priorities.

These are hard questions—issues which we, as the Nation's policymaking body, must face. How does the EIA proposal affect these questions and other important national issues?

MEETING NATIONAL GOALS

In 1961 the newly elected President, John F. Kennedy, enunciated a national goal—to put a man on the Moon by the end of the decade. Getting a man to the Moon, of course, was symbolic in part; the President was really saying that the United States should get into space development in a big way. That national priority decision was questioned then by some who felt that other issues were more important, but the decision was put to Congress and we all know the results.

How did we choose to meet this goal? We did not set up an authority to do it. Rather, NASA was created and was told to act within the normal budget and appropriations processes. Did this impair the effort? I do not think so. In fact, it can be said that going through that rigorous process may well have made the program more efficient than it would have been if the experts had been told, as the EIA proposal would have us do in the energy situation, to take a massive sum of money, go away, and come back in 10 years with a "solution."

And in the interim Congress and the Executive had a continuing say in what our space priorities should be. Each year new nuances were reviewed, new directions explored.

My point, simply put, is that national goals can be achieved through the established process and that process can, through its continuing review of priorities, actually improve performance and effectiveness.

ACCOUNTABILITY AND RESPONSIBILITY

The Ford-Rockefeller proposal for an EIA calls, in effect, for this Congress to abdicate its responsibilities in the energy research and development field. We are asked to authorize authority—which, we will be told, will not suffer from bureaucratic malaise—and give it sufficient borrowing capacity so it will have $100 billion to work, on its own and in "partnership" with private enterprise, on energy research and development during the next decade.

I suggest, Mr. Speaker, that, like war, energy development is too important to be left to the "experts." Congress is the Nation's sounding board where the interests of a large and pluralistic society can be aired and compromised. The priority decisions which need to be made—should we concentrate more resources on nuclear energy or solar energy? Is coal more important than oil shale? And so forth—are ones over which reasonable men can and probably will differ. The place to settle these differences is in Congress, not behind the doors of an independent authority's offices.

Resource allocation is one of the Government's most important functions. It is almost incredible that President Ford, supposedly a fiscal conservative, would propose that we set up an independent agency, with far less of the usual Executive and congressional review than other agencies, to allocate $100 billion of our gross national product during the next 10 years.

NASA and our space program was accountable to the President and the Congress and achieved its goals. So can our energy research and development effort.

CREDIT ALLOCATION

Giving a Federal agency, particularly one which is less than fully responsible to the Executive and Congress, $100 billion in borrowing authority, is extremely risky and may well be very disruptive. What will happen is that the agency will borrow these funds from the general market and reloan or otherwise invest them in a much more specific market. This is credit allocation no matter what name you give it.

And this is credit allocation without the justification which exists for the other kinds of Federal "off-budget" activities I discussed before. For in many—most—of those instances the private sector is unable to supply as much financing as the perceived national need requires. But in this case, the energy industry has not even asked for this special treatment. Almost all credit market experts agree that there will be ample credit available for almost all segments of the energy field—electric utilities may be the one exception. So we do not face a situation where it is likely that insufficient resources will be available for a clear national purpose. Rather, the credit will be there in the normal course, without disrupting the credit market and diluting other investment opportunities by mak-

ing energy so special—a Federal guarantee is as close as one can get to a sure thing—that others suffer by comparison.

PUBLIC/PRIVATE PARTNERSHIP

There are instances where a joint venture between Government and private enterprise makes sense. But the potential for abuse and favoritism is always there, and we should be very careful, in my judgment, to make sure the need is so overriding that the risk of abuse is justified.

Here we are asked to authorize an independent authority to spend up to $100 billion—400 times larger than the Lockheed loan guarantee—in partnership with one of the most profitable industries in the country. I for one cannot see my way clear to providing this much money, at low federally guaranteed interest rates, to an industry which needs help so little. Rather, I think Congress should appropriate those amounts needed to start research going in areas where private capital is unwilling or unable to go and take these aspects of the program to the point where the private sector will take over. We have done this in the past and we can again, and without sacrificing time.

CONCLUSION

Mr. Speaker, I have gone to great length to present my analysis of the Energy Independence Authority because I feel very strongly that serious consideration of this proposal would be a mistake. It would take up valuable time which could be put to a more useful purpose.

But I have also gone into such depth because, as a former member of the New York State Legislature, I have had experience with proposals of this kind before.

An extremely wise philosopher once said that those who do not learn from history's mistakes are doomed to repeat them. I am aware of the mistakes in New York's history and I learned from them. I have elaborated them today, Mr. Speaker, in the hopes that my colleagues will benefit from the history I have outlined and join me in making sure that we do not repeat, on a grand scale, the mistakes which are endemic in the house of cards which was built in New York.

BOYCOTTING ISRAEL AND CONGRESSIONAL OVERSIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Moss) is recognized for 5 minutes.

Mr. MOSS. Mr. Speaker, in a statement following yesterday's action sending civilian technicians to the Sinai, I offered the reminder that the Sinai peace proposal offers no guarantee that the Arab boycott will end and that American firms will no longer be requested to support that boycott against Israel—page 32416 of October 8 CONGRESSIONAL RECORD.

I also took that occasion to stress the need for congressional oversight to determine whether U.S. policy and laws are being violated by these practices and, if so, to what extent.

By the terms of the boycott, American firms, in order to do business with Arab nations, are being required to refrain from doing business with Israel, or with other firms who do business with Israel or firms which have persons of the Jewish faith as members of their boards of directors or with controlling stock interests. On their face, these practices are clearly violative of the fundamental American concepts of free trade and freedom from religious discrimination.

A recent editorial in the Los Angeles Times underscored the importance of congressional oversight regarding this matter and the seriousness of the Secretary of Commerce's refusal to comply with a subpena issued by the Oversight and Investigations Subcommittee for information on the boycott.

With the permission of my colleagues, that editorial follows:

BOYCOTTING ISRAEL—AND U.S. POLICY

American policy, stated in law, specifically opposes restrictive trade practices or boycotts imposed by foreign countries against other countries friendly to the United States. U.S. law also forbids secondary boycotts.

Congress thinks there may be violations in both of these areas of law in the way the Arab boycott of Israel impinges on American business activity. It is seeking information to shed light on these matters, but its search has run head on into a roadblock erected by the Ford Administration.

Evidence has come to light that the Commerce Department—contrary to explicit policy—has on occasion cooperated with the Arab boycott of Israel by transmitting to American businessmen requests for information that would support the boycott, and possibly adversely affect other U.S. businesses.

The department admits that this has happened, but says that no useful purpose would be served if it refused to act as a channel for Arab-boycott information. The contradiction between policy and practice seems self-evident, to everyone except the Commerce Department.

In an effort to find out just what's going on, the House Commerce Committee has subpoenaed from the department the list of all American companies that have been asked to support the Arab boycott. Commerce Secretary Rogers C. B. Morton has refused to comply with the subpoena, citing an opinion by Atty. Gen. Edward H. Levi that the confidentiality of the information requested is protected by law.

Rep. John E. Moss (D-Calif.), chairman of the commerce subcommittee immediately involved in the confrontation, doesn't agree. He correctly argues that the questions here are whether U.S. law is being upheld and whether the executive branch can withhold from Congress information necessary to determining if and how well laws enacted by Congress are being enforced.

The answer to the second question is clear: Congress must have the information it has asked for. When it gets it, we will know the answer to the first question of how well U.S. laws are being enforced.

LEGISLATION TO AMEND THE FAIR LABOR STANDARDS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 5 minutes.

Mr. DENT. Mr. Speaker, I am today introducing a bill to amend the Fair Labor Standards Act to increase the Federal minimum wage rate, to provide for greater compensation for overtime hours worked, and to phase out and ultimately repeal the provision of existing law which generally limits tipped employees to the receipt of only one-half of the applicable minimum wage. The bill increases the minimum wage rate, in graduated steps, to $3 an hour, and provides that increases thereafter will be pegged to cost-of-living changes as reflected by the Consumer Price Index. This feature will, at the same time, bring the statutory rate in to some accord with the dramatic erosion of the dollar since the 1974 amendments first became effective, and insure that minimum wage earners will no longer be dependent upon the ability or proclivity of the Congress to react to the economic realities of their plight; but rather, will have the integrity of their wages protected by a mechanism upon which we currently rely to secure the retirement benefits of our Federal employees.

The overtime compensation adjustment is a response to our high rate of unemployment and is designed solely to promote employment by discouraging the continued reliance of employers on overtime hours of work in lieu of expanding their workforces. The "tip credit" repeal is simply a recognition that all workers, be they tipped employees or not, are entitled at least to the minimum wage rate, and should not be expected to supplement their employers' obligations by the rewards from their own personal and gratuitous services.

The Subcommittee on Labor Standards has scheduled hearings on this measure for October 21–23, and we hope to expedite its consideration consistent with both fairness and feasibility. For the benefit of all interested parties, a copy of the introduced bill follows my remarks at this point in the RECORD:

H.R. 10130

A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, to provide for an automatic increase in such wage rate based on increases in the price index, to require an overtime rate equal to two and one-half times the regular wage rate, and to reduce and then repeal the credit against the minimum wage which is based on tips received by tipped employees

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Fair Labor Standards Amendments of 1975".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201–219).

STATUTORY INCREASE IN MINIMUM WAGE

SEC. 2. (a) Section 6(a)(1) (29 U.S.C. 206 (a)(1)) is amended to read as follows:

"(1) not less than $2.30 an hour during the period ending June 30, 1976, not less than $2.65 an hour during the period beginning July 1, 1976, and ending December 31, 1976, and not less than $3 an hour after December 31, 1976, except as otherwise provided in this section;".

(b) Section 6(a)(5) (29 U.S.C. 206(a)(5)) is amended to read as follows:

"(5) if such employee is employed in agriculture, not less than—

"(A) $1.80 an hour during the year beginning January 1, 1975,

"(B) $2 an hour during the period beginning January 1, 1976, and ending June 30, 1976,

"(C) $2.35 an hour during the period beginning July 1, 1976, and ending December 31, 1976,

"(D) $2.60 an hour during the year beginning January 1, 1977, and

"(E) $3 an hour after December 31, 1977, except as provided in subsection (g)."

(c) Section 6(b) (29 U.S.C. 206(b)) is amended to read as follows:

"(b) Every employer shall, except as provided in subsection (g), pay to each of his employees (other than an employee to whom subsection (a)(5) applies) who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek was brought within the purview of this section by the amendments made to this Act by title IX of the Education Amendments of 1972 or by the Fair Labor Standards Amendments of 1974, wages at the following rates:

"(1) Not less than $2 an hour during the year beginning January 1, 1975.

"(2) Not less than $2.20 an hour during the period beginning January 1, 1976, and ending June 30, 1976.

"(3) Not less than $2.50 an hour during the period beginning July 1, 1976, and ending December 31, 1976.

"(4) Not less than $2.75 an hour during the year beginning January 1, 1977.

"(5) Not less than $3 an hour after December 31, 1977."

Cost-of-Living Adjustment in Minimum Wage

SEC. 3. (a) Section 6 (29 U.S.C. 206) is amended by adding at the end the following new subsection:

"(g)(1) The wage rates prescribed by subsections (a) and (b) shall be adjusted as follows:

"(A) After January 1, 1977, the wage rate prescribed by subsection (a)(1) shall be adjusted as follows: Effective the first day of the third month that begins after the percent change in the price index equals a rise, after December 31, 1976, of at least 3 percent for 3 consecutive months over the price index for the base month, the wage rate prescribed by subsection (a)(1) or that rate as adjusted in accordance with this subparagraph, whichever is applicable, shall be increased by 1 percent plus the percent rise in the price index (calculated on the highest level of the price index during the 3 consecutive months) adjusted to the nearest 1/10 of 1 percent.

"(B) Effective on and after January 1, 1978, the wage rate in effect under subsections (a)(5) and (b) shall be the wage rate prescribed by subsection (a)(1) as adjusted under subparagraph (A).

Each month the Secretary shall determine the percent change in the price index.

"(2) For purposes of paragraph (1) of this subsection—

"(A) The term 'price index' means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics of the Department of Labor.

"(B) The term 'base month' means the month in which the Fair Labor Standards Amendments of 1975 were enacted or a subsequent month for which the price index showed a percent rise forming the basis for a cost-of-living adjustment under paragraph (1)."

(b)(1) Section 6(c)(1) (29 U.S.C. 206(c)(1)) is amended by inserting ", as adjusted in accordance with subsection (g)," after "this section".

(2) Section 6(c)(5) (29 U.S.C. 206(c)(5)) is amended by inserting ", as adjusted in accordance with subsection (g)," after "subsection (a) or (b)" and after "such subsection".

(3) Section 6(f) (29 U.S.C. 206(f)) is amended by inserting ", as adjusted in accordance with subsection (g)," after "section 6(b)".

OVERTIME COMPENSATION

SEC. 4. Effective with respect to workweeks beginning on or after July 1, 1976, sections 7, 13(b), and 13(h) (29 U.S.C. 207, 213(b), 213(h)) are each amended by striking out "one and one-half times" each place it occurs and inserting in lieu thereof "two and one-half times".

TIP CREDIT

SEC. 5. (a) Effective on the first day of the second full month which begins after the date of the enactment of this Act, the next to last sentence of section 3(m) (29 U.S.C. 203(m)) is amended by striking out "50" and inserting in lieu thereof "25".

(b) Effective one year after the effective date of the amendment made by subsection (a), the last two sentences of section 3(m) are repealed.

WAYS AND MEANS HEARINGS ON SUPPLEMENTAL SECURITY INCOME PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, in cooperation with the Public Assistance Subcommittee which has been developing legislation to improve the supplemental security income program for the aged, blind, and disabled, the Ways and Means Oversight Subcommittee will hold the second in its series of SSI hearings on Monday, October 20, 1975.

As in the first hearing, the October 20 hearing will be chaired by the subcommittee's ranking majority member, the Honorable SAM GIBBONS of Florida.

The subcommittee will again hear from Social Security Administration officials and will concentrate on staffing and outreach problems. The hearing room and time will be announced at a later date.

Copies of the subcommittee's first volume of SSI hearings are available through the subcommittee's office, 1539 Longworth House Office Building, Washington, D.C. 20515.

IN HONOR OF COLUMBUS DAY 1975

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 15 minutes.

Mr. RODINO. Mr. Speaker, I want to take this opportunity to remind my colleagues of the major national holiday which this Nation will be celebrating on Monday, October 13, Christopher Columbus Day. I take this time to reflect upon Christopher Columbus, because I believe that the spirit and destiny of this man have a very special message for all of us during this period when the problems facing our Nation seem so overwhelming.

I believe that this year our Columbus Day celebration should serve as a day for reaffirmation by the American people of their faith in the future, their ability to meet the challenges of the unknown, and their can-do spirit which sustained Columbus in 1492, strengthened the Founding Fathers in 1776 and cannot help but revive us in 1976. Let us celebrate the spirit of adventure and ethnic diversity that made this country great. Let us conquer the fear of the unknown and explore the uncharted course of the future just as Christopher Columbus conquered fear and ignorance as he sailed the Atlantic to the discovery of a new land, rich beyond his wildest dreams.

To combat the worst recession in 40 years, to deal with high unemployment, and high prices at the same time, to adjust our economy and our foreign policy to the new realities of international economics, to preserve our environment and at the same time develop new sources of energy, will call for an effort of historic proportions from our public servants, and unselfish sacrifice from all our people.

Mr. Speaker, we have much to be done, but I believe we are equal to the task. I believe that we can call once again on the bold and daring spirit which impelled a navigator from Genoa, with Spanish officers and boatloads of Portuguese sailors, across an unknown ocean in search of a dreamed-of land. We can call upon the rich tapestry of diverse ethnic backgrounds, education, and experience which created and maintained this land to rescue us from our current woes and keep our course on a brighter tomorrow.

Mr. Speaker, I am proud to have authored the legislation which created Columbus Day and am equally proud of the countless contributions made throughout our history by Americans of Italian heritage. But the Columbian legacy is much more than a source of pride for Italo-Americans; it has been a gift to all Americans. We are all sons and daughters of Columbus who carry his spirit, courage, and fortitude through to this day.

REINTRODUCTION OF FARMER-TO-CONSUMER DIRECT MARKETING ACT OF 1975

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. VIGORITO) is recognized for 10 minutes.

Mr. VIGORITO. Mr. Speaker, I am reintroducing today, with an expanded number of cosponsors, a revised version of the bill to encourage the direct marketing of agricultural commodities from farmers to consumers.

The bill introduced today is the amended version of H.R. 7488, as approved on Tuesday of this week by the Subcommittee on Domestic Marketing and Consumer Relations of the House Agriculture Committee.

I am taking this opportunity briefly to discuss the subcommittee action on the bill, and also to make a few points about what the bill would, and would not, do.

Tuesday's subcommittee action, in my view, perfected and improved the bill in several ways. One significant change was the inclusion of the State departments of agriculture, along with the extension service of the U.S. Department of Agriculture, as the two agencies within the States responsible for carrying out technical and other assistance for direct marketing that is authorized by the bill. Since on a State-by-State basis both the State departments of agriculture and the extension service have experienced personnel in the area and are in a position to assist with farmer-to-consumer marketing, it is only logical to involve both of them.

The bill as reintroduced today retains its essential purposes: to provide a measure of primarily technical assistance to private individuals and groups in order to assist direct marketing of fruits and vegetables and other food commodities, in a manner calculated to increase financial returns to farmers and to reduce the cost and increase the quality of food to consumers.

Given those purposes, however, it is important not to balloon out of proportions the type of impact that should realistically be expected from the bill.

One would anticipate that the preponderance of direct marketing on which this bill has an impact will involve fresh, unprocessed fruits and vegetables. Furthermore, those fruits and vegetables will be mostly in-season produce, from smaller farms that are within shortdistance trucking range of towns or cities of substantial size.

Certainly the direct marketing that results from this bill will operate within the context of the complex system through which food is prepared, transported, and marketed in the United States. There is nothing in the bill that ignores the demands and essential functions of that system, or that envisages change in it in any fundamental way. No doubt the overwhelming proportion of farm produce, including fresh and processed fruits and vegetables, will continue to move through the regular commercial channels of trade.

The successful operation of a direct food marketing facility within a town or city can have beneficial side effects for the business community. For example, such a market can attract people into the downtown shopping district, thus stimulating retail trade. Farmers markets in Louisville, Ky., and Syracuse, N.Y., are instances where downtown business has benefited from such marketing operations.

The bill is, of course, completely voluntary as to whether any particular farmer elects to market any part of his produce directly to consumers. Most farmers have neither the time nor the inclination directly to market their produce, and will continue to market through regular commercial outlets.

At the same time, this bill can have quite substantial, beneficial effects. It can allow smaller farmers whose farms are interspersed with urban concentrations throughout the more populated areas of the country, in particular, to stay in business, by providing backup assistance to help them to market their produce directly. It can allow more consumers to purchase fresh, field-ripened produce, often at lower prices than are otherwise available.

Furthermore, although the bill places primary reliance upon private individuals and groups to take initiatives toward new methods of direct marketing, on a self-sustaining basis, it encourages flexibility and innovation in those instances where direct marketing appears to be feasible and beneficial.

Mr. Speaker, I am convinced that those who are involved in every stage of the food marketing system, from the farmer to the consumer, are served by the legislation that I am reintroducing, with cosponsors, today.

COSPONSORS

Mr. VIGORITO (for himself, Mr. BALDUS, Mr. BERGLAND, Mr. BOWEN, Mr. BRECKINRIDGE, Mr. BROWN of California, Mr. D'AMOURS, Mr. ENGLISH, Mr. FITHIAN, Mr. HARKIN, Mrs. HECKLER of Massachusetts, Mr. JEFFORDS, Mr. JENRETTE, Mr. JONES of Tennessee, Mr. LITTON, Mr. MELCHER, Mr. MEZVINSKY, Mr. NOLAN, Mr. PEYSER, Mr. RICHMOND, Mr. ROSE, and Mr. WEAVER).

Text of the bill:

H.R.—

A bill to encourage the direct marketing of agricultural commodities from farmers to consumers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farmer-to-Consumer Direct Marketing Act of 1975".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) direct sales from farmers to consumers of fresh or processed farm produce and commodities can improve the markets of and financial returns to farmers, assist small-scale farmers in becoming economically viable, and improve the quality and reduce the cost of foods to consumers;

(2) because of increased transportation and fuel costs, consumer preferences for fresh or natural foods, increased prices of food marketed through conventional retailing channels, and other reasons, there is an enhanced interest among farmers and consumers for direct farmer-to-consumer marketing channels;

(3) there is a need to provide information, technical assistance, and other assistance to individuals and groups undertaking the establishment and operation of traditional methods of direct marketing from farmers to consumers; and

(4) there is a need for planning, incentives, and other assistance to develop innovative commercial arrangements that can facilitate, on a continuing basis, the interface of farmers as sellers and consumers as buyers for their mutual benefit.

(d) It is the purpose of this Act to foster and promote, through appropriate means on an economically sustainable basis, the development and expansion of both traditional and innovative approaches to direct marketing of agricultural commodities from farmers to consumers. To accomplish this objective, the Secretary of Agriculture (hereinafter referred to as the "Secretary") shall initiate and coordinate a program, which includes the activities described in sections 4 through 7, designed to facilitate direct marketing from farmers to consumers for the mutual benefit of consumers and farmers.

DEFINITION

SEC. 3. For purposes of this Act, the term "direct marketing from farmers to consumers" shall mean the marketing of agricultural commodities at any marketplace (including, but not limited to, roadside stands, city markets, and vehicles used for house-to-house marketing of agricultural commodities) established and maintained for the purpose of enabling farmers to sell (either individually or through a farmers' organization directly representing the farmers who produced the commodities being sold) their agricultural commodities directly to individual consumers, or organizations representing consumers, in a manner calculated to lower the cost and increase the quality of food to such consumers while providing increased financial returns to the farmers.

SURVEY

SEC. 4. The Secretary shall provide, through the Economic Research Service of the United States Department of Agriculture, or whatever agency or agencies the Secretary considers appropriate, a continuing survey of existing methods of direct marketing from farmers to consumers in each State. The initial survey, which shall be completed no later than one year following the date of enactment of this Act, shall include the number and types of such marketing methods in existence, the volume of business conducted through each such marketing method, and the impact of such marketing methods upon financial returns to farmers (including their impact upon improving the economic viability of smaller farmers) and food quality and costs to consumers. This survey shall be updated every five years.

TRADITIONAL METHODS OF DIRECT MARKETING FROM FARMERS TO CONSUMERS

SEC. 5. (a) In order to foster and promote the establishment and operation of traditional methods of direct marketing from farmers to consumers, the Secretary shall provide that funds appropriated to carry out this section be utilized by State departments of agriculture and the Extension Service of the United States Department of Agriculture for the purpose of conducting or facilitating activities which will initiate, encourage, develop or coordinate methods of direct marketing from farmers to consumers within or among the States. Such funds shall be allocated to a State on the basis of the feasibility of direct marketing from farmers to consumers within that State as compared to other States and shall be allocated within a State to the State department of agriculture and to the Extension Service on the basis of the types of activities which are needed in the State and on the basis of which of these two agencies, or combination thereof, can best perform these activities. The activities shall include, but shall not be limited to—

(1) sponsoring regional and statewide conferences within each State which are designed to facilitate the sharing of information (among farm producers, consumers, and other interested persons or groups) concerning the establishment and operation of direct marketing from farmers to consumers;

(2) compiling laws and regulations relevant to the conduct of the various methods of such direct marketing within the State, formulating drafts of enabling legislation needed to facilitate such direct marketing, determining feasible locations for additional facilities for such direct marketing, and preparing and disseminating through appropriate means (including mass communication media and conferences as described in paragraph (1) of this section) practical information on the establishment and operation of such direct marketing; and

(3) providing technical and other assistance for the purpose of aiding interested individuals or groups in the establishment of arrangements for direct marketing from farmers to consumers.

(b) In the implementation of this section,

the Secretary shall take into account consumer preferences and needs which may bear upon the establishment and operation of arrangements for direct marketing from farmers to consumers.

INNOVATIVE METHODS OF DIRECT MARKETING FROM FARMERS TO CONSUMERS

SEC. 6. (a) The purpose of this section is to foster the development of innovative farmer-to-consumer marketing arrangements and networks designed to encourage the interface of farmers and consumers, including organized farmers and consumers, on a sustainable basis, for the purposes of facilitating direct marketing from farmers to consumers.

(b) To achieve the purpose of this section, the Secretary shall foster activities including, but not limited to, the establishment of—

(1) bona fide cooperative enterprises, for the benefit of farmers and consumers, which are designed to enhance a sense of identification, participation, and an economic stake in the enterprise on the part of individual farmers and consumers;

(2) arrangements for organizations of farmers and consumers, acting jointly or otherwise, to contract with processors for the preparation of farm commodities which require processing prior to their sale directly from farmers to consumers;

(3) methods and procedures to facilitate the interface of organized farmers and consumers (including food buying organizations), on an economically stable and routine basis, for the purpose of providing for the direct sale of farm commodities to consumers; such methods and procedures may include the following: joint planning between farmers, labor unions, and other consumer groups; contractual arrangements between farmer and consumer groups; joint ownership of physical facilities used in the direct marketing from farmers to consumers; and single corporate organizations with joint representation of farmers and consumers on the policymaking bodies of such organizations; and

(4) methods of cooperation among farmers involved in direct marketing of agricultural commodities to consumers within a State or across State boundaries, including the development of—

(A) facilities at which farmers may pool their agricultural commodities for the purpose of having them sold directly to consumers;

(B) methods for moving agricultural commodities from one marketing area to another for the purpose of affording greater balance of supply and demand; and

(C) methods whereby marketplaces engaged in direct marketing from farmers to consumers may legally associate with one another for the purpose of developing a common label by which they can market their produce, and for other purposes.

(c) Within three years of the date of enactment of this Act, the Secretary shall establish and maintain, under the auspices of the Farmer Cooperative Service of the United States Department of Agriculture, at least five distinctively different projects involving the formation of innovative methods of direct marketing from farmers to consumers. These projects shall be established in different regions of the United States and shall be concerned with different economic and social situations. In carrying out such projects, the Administrator of the Farmer Cooperative Service—

(1) shall consult and cooperate with the Bank for Cooperatives, the Extension Service of the United States Department of Agriculture, State departments of agriculture, the United States Department of Health, Education, and Welfare, and any Federal agency hereafter established which is charged with the promotion of consumer interests within the Government; and

(2) is authorized, for the purpose of administering projects developed under this section, to enter into contracts with, and make grants to, public or private nonprofit agencies or organizations, agencies of a State government or a political subdivision of a State, or a combination of such political subdivisions; the Administrator is authorized to prescribe and amend regulations which are necessary to administer effectively such contracts and grants.

(d) In the implementation of this section, the Secretary shall take into account consumer preferences and needs which may bear upon the establishment and operation of arrangements for direct marketing from farmers to consumers.

ANNUAL REPORT

SEC. 7. The Secretary shall periodically review the activities carried out under sections 4, 5, and 6 of this Act and shall report to the Committee on Agriculture, United States House of Representatives, and the Committee on Agriculture and Forestry, United States Senate, within one year of the date of enactment of this Act, and annually thereafter, with respect to the effectiveness of this Act. The Secretary shall include in such report at least a State-by-State summary of the results of the survey conducted under section 4 of this Act, a summary of the activities and accomplishments of the Extension Service and the State departments of agriculture in the development of direct marketing from farmers to consumers during the previous year, and a description of activities carried out by the Secretary during the previous year to develop innovative farmer-to-consumer cooperative marketing arrangements (including the status of projects under contract with the Farmer Cooperative Service).

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. (a) For purposes of carrying out the provisions of sections 4 and 7, there are authorized to be appropriated such sums as are necessary.

(b) For purposes of carrying out the provisions of section 5, there is authorized to be appropriated $1,500,000 for each of the fiscal years ending June 30, 1976, September 30, 1977, and September 30, 1978.

(c) For purposes of carrying out the provisions of section 6, there is authorized to be appropriated $1,000,000 for each of the fiscal years ending June 30, 1976, September 30, 1977, and September 30, 1978.

FREEING NORTHERN IRELAND FROM BRITISH CONTROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ZEFERETTI) is recognized for 10 minutes.

Mr. ZEFERETTI. Mr. Speaker, for several long centuries, the people of Ireland have lived under foreign domination in the form of British rule. Throughout that period, the Irish have had to struggle bitterly and at times violently for the enjoyment of liberties and rights that any democracy takes for granted.

From the very first moment of British domination, the Irish people have fought to be masters of their own house. Generations of patriots have shed their blood and laid down their lives for this principle. In the face of this determined resistance, the British have responded with repression, military rule, and overt discrimination against the Irish in their own lands.

For centuries, Irish men and women were not allowed to practice their own religious faith freely. A foreign state church was imposed upon them, and they were forced to support it financially. A landed British aristocracy exploited Irish resources, oppressing the common people of that land, with an all-encompassing indifference to the consequence to their policy. Privation beset these Irish people, and the centuries of British rule are littered with the bones of hundreds of thousands of Irish who died as a result of this.

Again and again, these people rebelled, seeking only a chance to live as a free people. Again and again, the British put down these rebellions, drowning them in a sea of fire, and blood.

England's insensitivity has been matched and exceeded only by Ireland's determination to be free. Southern Ireland has achieved some measure of freedom. Eamon De Valera went to his grave with his fondest dream unfulfilled; a totally free and unified Ireland. Today, Britain still rules those six of divided Ulster's nine counties known as Northern Ireland. The Roman Catholics of that area still face the same discrimination and oppression that their forebears bared and endured in past centuries. Today, British military rule oppresses these people despite the outrage of the Western world. British troops roam the streets of Northern Ireland's towns and cities, suppressing full political expression. The detention policy, odious to all civilized men and women, still detains thousands of Irish citizens in violation of all accepted rules of law.

The U.S. Government has maintained a steadfast silence in the face of this situation. By our silence, our Government lends de facto support to Britain's policy in the North. Such a continued refusal to stand up for what is right is unacceptable to me and to the overwhelming majority of Americans. Should the United States vigorously protest these policies, Britain would have to relax them, and allow some type of plebiscite for all Ireland that would change the situation drastically. Until we move, there will be no change. And, we have it within our power to do something.

Therefore, I am introducing a sense of the House resolution that calls for self-determination for Northern Ireland. It is a no-nonsense expression of how Americans feel, and it is my fervent hope that it will commend enough support here to make an impression upon the administration, the State Department in particular, and the British Government. These people have a right to determine for themselves the form of government they wish.

As of today, they have no such freedom, and it remains a mockery of democracy for Britain and the United States to continue mouthing the catch phrases of liberty while continuing to support or carry through the aforementioned policies.

DR. ARMEN SARAFIAN—DISTINGUISHED EDUCATOR

The SPEAKER pro tempore. Under a previous order of the House, the gentle-

man from California (Mr. DANIELSON) is recognized for 5 minutes.

Mr. DANIELSON. Mr. Speaker, on October 23, 1975, Dr. Armen Sarafian, president of Pasadena City College and a personal friend of mine, will be honored at a testimonial luncheon on the occasion of his retirement after 10 years of distinguished service to Pasadena City College. Not only will Pasadena City College lose an able and dedicated leader, but the field of education is losing one of its most vigorous participants. It is only fitting that such service should be recognized.

As an educator for more than 27 years, Dr. Sarafian has contributed much to the young people and the communities of southern California. He has taught at 12 different colleges and universities, including UCLA, USC, Occidental College, the Claremont Colleges, and California State University at Los Angeles. In addition to his active role as an instructor in the classroom, he has taken part in the formulation and structuring of higher education in California as a member of the Select Committee on Restudy of the California Master Plan on Higher Education. The high standard of California higher education is due to such men as Dr. Sarafian.

But, higher education has not been the sole field of his endeavors, he has also been a leader in community affairs. Dr. Sarafian has served as president-elect of the Pasadena Chamber of Commerce and as president of the California Conservation Council. As founder and adult adviser of the Pasadena Youth Council and as honorary adviser of the Pasadena Chapter of the American Red Cross, Dr. Sarafian has served his community with the same dedication that he has given to the field of education.

It is a great privilege to have had a man such as Dr. Sarafian working for the people of California and providing guidance and inspiration to its young people.

DOUBLE-BOTTOM TANKSHIPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 10 minutes.

Mr. MURPHY of New York. Mr. Speaker, the question of whether or not to impose double bottoms on oil tankers is one which seems to recur regularly. In light of U.S. Coast Guard regulations to be published shortly concerning U.S. oil tankers operating in domestic waters, I believe it is time to lay this issue to rest once and for all. The Coast Guard will be issuing final and proposed regulations regarding the design, construction, and operation of domestic oil tankers in an effort to reduce operational and accidental oil pollution. I have dealt at length with this subject in a speech given on October 7, 1975, at the Statler Hilton Hotel in Washington D.C., before the Ship Structure Symposium 1975.

I am repeating those remarks here tonight and have asked unanimous consent to include some letters documenting and substantiating certain facts I have stated.

The articles follow:

STATEMENT OF CONGRESSMAN JOHN M. MURPHY BEFORE THE SHIP STRUCTURE SYMPOSIUM 1975

In the two years since the IMCO convention, I have continued to work closely with Admiral Benkert, serving as chairman and now as a member of the House Coast Guard Committee. As a member of this committee, I have watched closely and with satisfaction as the Coast Guard has proceeded to carry out the mandates of the IMCO convention and the Ports and Waterways Safety Act.

Mike Benkert is a Coast Guard officer serving his country in the highest tradition. He has devoted his many talents to keeping the Coast Guard abreast of the accelerating developments of technology and the rapidly changing needs of society. This has often been in the face of adversity, but through the courage of his convictions Admiral Benkert has ensured that the Coast Guard is making a valuable contribution to progress.

I am deeply honored to have been invited to speak to this distinguished group tonight. The proceedings of this symposium and the individual contributions of the participants are certain to have a significant impact in the fields of Naval architecture and Marine engineering. It is indeed a pleasure to be with you here this evening.

I would like to address an issue this evening which is of great concern to me, and I'm sure is of concern to all of you. It is an issue which has sparked a controversy in Marine circles throughout the world, and will continue to be hotly debated in the months ahead.

The question at hand is: "What shall we do about double bottoms on oil tankers?" As I see it, we have three alternatives. One, we can pass legislation that requires double bottoms, as some members of Congress would have us do. Two, we can bar double bottoms tankers from the world's oceans, as the French would have us do. Or, three, we can stress flexibility. We can allow individual shipbuilders to arrange segregated ballast tanks as they wish, according to a flexible formula.

Obviously, all three of these alternatives have arguments in their favor. But before I discuss their relative merits, let me emphasize that they all have a common purpose: To reduce the amount of oil pollution in our oceans.

There is no question that this is an important goal. We are all concerned about the marine environment, about the beauty of our beaches, and the survival of the fish, birds and plants that thrive in and near the sea.

And there is no question that oil pollution does threaten the marine environment. We have all heard stories and seen pictures of the devastating short-term effects of oil pollution on the oceans, beaches and wildlife.

It is obvious—in fact, imperative—that we minimize the amount of oil discharged into the sea. Since one-third of all the oil which flows into the sea comes from marine transportation, that is an important target in our efforts to reduce oil pollution.

Now let us examine each of these three alternatives to see which one is most effective in reducing oil pollution.

Those who favor double bottoms argue that, by placing two layers of steel between the cargo and the ocean, they are providing a defensive space in the case of a grounding accident. It makes sense that in some cases, where a single bottom tanker would run aground and spill some of its oil into the ocean, a second layer of steel would prevent that outflow.

In addition, proponents of double bottoms argue that in cases where both hulls are ruptured, containment of the cargo would be helped by the double bottoms, and the rate of discharge of the oil would be slower, thus allowing more time for response.

Finally, advocates of the double bottoms point to the fact that a smooth inner surface of the cargo tanks means there is less surface area and less clingage when the cargo is removed. This in turn means that there is less residue following unloading of a tanker; cargo tanks need to be cleaned less frequently; and oil pollution from tank cleaning operations is reduced—U.S. Congress, Office of Technology Assessment, "Oil Transportation by Tankers: An Analysis of Marine Pollution and Safety Measures."

Now, let us turn to the opponents of double bottoms. This faction argues that double bottom tankers pose an even greater threat to the marine environment than single-bottom tankers. They contend that a minor grounding accident in a single bottom tanker could turn into an accident of catastrophic proportions if the tanker had a double bottom. Their argument runs like this:

When a single bottom tanker runs aground, it loses some of its cargo and becomes lighter. As a result, it rises slightly out of the water, thus automatically helping to free itself.

However, if the same tanker had a double bottom, then instead of losing cargo, water would rush into the empty ballast space between the two layers of steel, make the tanker heavier, and the vessel would sink deeper in the water.

Now, it is argued by opponents of double bottoms that by sinking deeper, the tanker settles more firmly aground and there is a greater chance of major damage, including the total breakup and loss of the ship.

This means that what might have been only a minor spill from a single bottom tanker could become a major accident in a double bottom tanker, involving the loss of the entire cargo and possibly the loss of lives.

Opponents of double bottoms also argue, as did the Norwegians at the 1973 IMCO conference, that there is a possibility that flammable vapors will accumulate in the spaces between the outer hull and the cargo tanks. This could result in disastrous explosions, also involving the loss of the entire cargo and the loss of lives.

The final argument made by opponents of double bottoms is that by placing empty ballast spaces below a loaded cargo tank, you raise the ship's center of gravity. A higher center of gravity, of course, means reduced stability and a greater chance of capsizing. This is a particularly important consideration in rough seas. Thus, requiring double bottoms could actually increase the number of tanker accidents.—American Institute of Merchant Shipping, "Tanker Double Bottoms. Yes or No?"

Now between those who want to require and those who want to prohibit the use of double bottoms in tankers, stand those who demand flexibility in the regulations. This group is not convinced by the arguments of either side, and prefers to wait until more evidence is collected. This group recognizes that there are now only seven double bottom oil tankers in the crude oil trade in operation worldwide and that this hardly constitutes an adequate data base. Indeed, most of the arguments on both sides are based on speculation—speculation about the safety of the ships and about their effectiveness. The arguments of this third group, therefore, stress the uncertainty surrounding the arguments of the first two groups.

Let us now look at the arguments presented by this third group: those who see flexibility as the most effective way of reducing oil pollution.

First, they dispute the claims of double bottom tanker advocates with regard to the effectiveness of double bottoms. Those who favor double bottoms frequently cite a published analysis of 30 grounding accidents.

In 27 of these, vertical damage was less than one-fifteenth of the vessel's beam. That means that in 90 percent of the groundings, the cargo tank would not have ruptured if

there had been a double bottom of about 2 meters in depth. This seems to be a persuasive argument in favor of the effectiveness of double bottoms. However, there are two important factors which raise doubts about the validity of this argument.

For one, there is evidence that the inner layer of steel might still rupture, just from the integral structural connection between the two layers. An IMCO study found this to be the case in many groundings of double bottom dry cargo vessels.

Also, this fails to take into account the possibility of greater damage occurring as the tanker sinks deeper in the water. Therefore, the actual effectiveness of double bottoms is undoubtedly less than the 90 percent figure cited in this Coast Guard study.

Indeed, this estimate has been reduced several times in subsequent studies. The Coast Guard did a second study and judged the effectiveness of double bottoms to be on the order of 73 percent. Later, the U.S. Department of Commerce Maritime Administration re-evaluated the Coast Guard's findings and estimated that only 35 percent of the oil discharged from groundings could have been avoided if the ships involved had had double bottoms.

Second, this group that demands flexibility in the arrangement of segregated ballast tanks, questions the arguments presented by those who oppose double bottoms. As stated above, opponents of double bottoms have argued that a firmly grounded double bottom tanker could cause salvage problems and result in a greater outflow of oil. However, some advocates of double bottoms argue exactly the opposite, that a firmly grounded tanker makes salvage easier, and many salvage experts view double bottoms with favor.

Again, the differing views stem from a lack of experience with double bottom tankers, and one cannot argue with certainty that double bottom tankers are more dangerous and will increase pollution.

Those who seek flexibility in the regulations also dispute opponents' concern over explosive vapors accumulating in empty spaces. These spaces, they claim, can be inerted and monitored and made as safe as any empty ballast tank.

A final concern of this third group is over the cost of requiring double bottoms. Estimates of the added cost of fitting tankers with double bottoms range from 2 to 13 percent. As I stated earlier, the benefits accruing from this added cost are, at best, difficult to assess. But let us try to put these benefits into perspective.

As I stated in the beginning, the National Academy of Sciences has estimated that marine transportation accounted for one-third of the total flow of oil into the world's oceans. That is, 2 million out of approximately 6 million tons of oil. Now, not all of the oil pollution from marine transportation comes from tankers—only about two-thirds. And of the oil pollution caused by tankers, only 15 percent is caused by tanker accidents; the rest is intentional from normal tanker operations. Now, of the 200,000 tons of oil flowing from tanker accidents, only one-fourth results from groundings. Most result from structural failures and collisions. So what have we arrived at? We have found that only 50,000 tons out of 6 million tons of oil pollution is caused by tanker groundings. That is less than one percent of all the oil flowing into the oceans from all sources. Less than 1 percent—National Academy of Sciences, "Petroleum in the Marine Environment."

So if we could eliminate all oil pollution caused by tanker groundings, we would only reduce the total amount of oil flowing into the oceans by one percent. And it is clear that we could never hope to eliminate *all* oil pollution resulting from groundings. In fact, we cannot even be certain whether by requiring double bottoms we would reduce or would increase the total oil outflow.

It is clear to me at this point that it would be a mistake to require double bottoms on all oil tankers. There is simply not enough evidence to justify the claims made by advocates of the double bottoms. Nor is there enough evidence to justify banning the double bottom tankers from the world's oceans. We must maintain a degree of flexibility and gather more evidence before setting up regulations.

In stating these views, I am supporting the actions of two impressive organizations: the Inter-Governmental Maritime Consultative Organization, or IMCO, and the United States Coast Guard. Both of these organizations have considered a number of measures designed to reduce oil pollution, including requiring double bottoms. Both, upon review of the evidence, decided *not* to impose the double bottom requirement.

In October 1973 IMCO held the International Convention for the Prevention of Pollution from Ships, in London. Representatives from 79 maritime nations presented their views and reached an agreement on an international convention.

One of the American positions at the beginning of the conference was in favor of requiring segregated ballast by the use of double bottoms on all new tankers. However, other nations which had experience with double bottom tankers were opposed to making double bottoms mandatory. At that time, in 1973, here were only 6 double bottom oil tankers in crude oil trade operating and they were all registered under foreign flags. The question of mandatory double bottoms was twice put to a vote at the conference and was defeated soundly both times: 22 to 9 as a requirement for larger tankers, and 21 to 5 for the smaller tankers.

The conference did adopt a number of measures which will go far toward minimizing the amount of oil pollution in the oceans. The regulations agreed to, deal with three aspects of operational oil pollution from tankers.

First the convention sets discharge criteria, including the requirement that the amount of oil discharged in a ballast voyage of new oil tankers cannot exceed 1/30,000 of the amount of cargo carried. This standard is twice as strict as the old standard. In addition, specified areas which are considered to be particularly vulnerable to pollution by oil have been designated as "special areas" in which oil discharges have been completely prohibited. The main special areas are the Mediterranean Sea, the Red Sea, the Baltic Sea, the Black Sea, and the Persian Gulf area.

Second the convention sets standards which will govern the cleaning of oil cargo tanks. All tankers must be capable of operating with the method of retention on board in association with the "load-on-top" system. To effect this, all tankers must be fitted with appropriate equipment, which will include an oil discharge monitoring and control system, oily water separating equipment or filtering system, slop tanks, sludge tanks, piping and pumping arrangements.

Third the convention sets construction standards. New oil tankers greater than 70,000 deadweight tons will be required to be fitted with segregated ballast tanks. These must be sufficient in capacity to provide adequate operating draft without a need to carry ballast water in oil cargo tanks. Also, subdivision and damage stability requirements have been set.

All of these actions will serve to greatly reduce the amount of oil flowing from normal tanker operation—bilge discharge and tank cleaning and ballasting—which constitute 80 percent of all the oil pollution caused by tankers.

The U.S. Coast Guard has also had a chance to set regulations designed to mitigate oil pollution. Under the Ports and Waterways Safety Act of 1972, the Coast Guard has broad authority to establish vessel traffic control systems and to set standards governing the design, construction, maintenance, and operation of oil-carrying vessels. In January 1973, the Coast Guard proposed regulations in compliance with the Act. Among the regulations was one requiring segregated ballast capability achieved in part by fitting in the cargo length a double bottom of a minimum height of one-fifteenth of the beam. This was the position that the United States was to take at the October IMCO convention.

However, subsequent to the IMCO Convention, and based in part on the evidence presented there, the Coast Guard decided not to make double bottoms mandatory.

The Coast Guard will be issuing final regulations this week regarding domestic tankers operating in domestic waters. The Coast Guard regulations will in effect enforce those international regulations adopted at the 1973 IMCO Convention. They will set discharge limits, specify required equipment, require segregated ballast tanks, and limit the size of cargo tanks.

In addition, the Coast Guard will go even further in a proposed regulation to be published this week. This proposed regulation will establish a formula for how the segregated ballast tanks should be distributed. This formula will not make double bottoms mandatory, but will allow a degree of flexibility in how the ballast tanks are arranged. This will allow for "J" wing tanks, "L" wing tanks, and other combinations of wing tanks, double bottoms and double sides. By allowing this flexibility in the distribution of ballast tanks, the Coast Guard has recognized two essential facts. One, defensive spaces can be effective in minimizing oil outflow in tanker accidents. And, two, groundings only account for one-fourth of the oil discharged in tanker accidents. Protection on the sides of the hull is also needed in case of collisions and rammings. The Coast Guard has wisely ascertained that double bottoms are not the panacea for oil pollution that proponents claim them to be—U.S. Coast Guard, "Final Environmental Impact Statement." Regulations for Tank Vessels engaged in the carriage of oil in domestic trade.

In addition to the final regulations and the proposed regulations that will be issued by the Coast Guard this week, the Coast Guard is also pursuing a number of other courses of action to help mitigate oil pollution.

In a few months, the Coast Guard will extend these regulations governing U.S. vessels in U.S. waters to U.S. vessels operating in foreign waters, and to foreign vessels operating in U.S. waters.

The Coast Guard is also studying the need for construction requirements for inland tank barges.

They are also considering regulations dealing with vessel traffic management systems, and improved vessel controllability and maneuverability.

Finally, the Coast Guard is doing all it can to encourage ratification of the 1973 IMCO Convention by the maritime nations of the world.

You may be wondering why a Member of the House of Representatives is telling you about an issue that has twice been debated in distinguished forums, and twice been resolved. I have brought up the subject tonight because the issue is before us once again. Several distinguished Members of Congress will apparently settle for nothing short of mandatory full double bottoms.

Last year an amendment was added to the Energy Transportation Security Act that would require double bottoms on vessels operating in the inland waters of the west coast. This provision was passed by both the House of Representatives and the Senate, but was vetoed by President Ford.

Again, in January of this year, a separate piece of legislation was introduced that would make double bottoms mandatory for new

U.S. tankers operating not only on the west coast, but in all U.S. waters. This bill is now under consideration by the Senate Commerce Committee.

The committee seems determined to have this legislation enacted. One of the courses of action the committee has taken, was to request a study of the entire issue of tanker safety by the congressional Office of Technology Assessment.

Now the Office of Technology Assessment, or OTA, was established in 1972 to provide competent, unbiased information concerning the physical, biological, economic, social, and political effects of advanced technological applications. The office is charged with providing early indications of the probable beneficial and adverse impacts of these applications of technology.

One can hardly say that the report that OTA issued in July of this year on tanker safety was a competent and unbiased study. The study draws conclusions favoring double bottoms after considering only a portion of the available information. It never really gives a strong argument for why double bottoms should be required. Instead, it refutes arguments from opponents of double bottoms and presents irrelevant information as though it supported their conclusion.

For instance, the study gives two tables showing the number of double bottom tankers in operation and on order worldwide as if the mere fact that some shipbuilders are building double bottoms were proof that they were effective in reducing oil pollution.

Also, the study discusses at length the various cost estimates for double bottom tankers and concluded that the actual increase in cost is less than feared by the shipbuilding industry. Does this in itself constitute an argument for requiring double bottoms?

When it comes to the effectiveness of double bottoms in mitigating oil discharges from tanker accidents, the OTA report is definitely short on evidence. It cites the Coast Guard study I mentioned earlier which claimed double bottoms to be 90 percent effective, but fails to fully consider how erroneous that estimate is and the fact that the original estimate was subsequently substantially reduced—by the Coast Guard.

And yet, for all their lack of evidence and the speculative nature of their arguments, the OTA still finds it possible to state, and I quote, "from a technical standpoint, it is generally accepted that double bottoms will prevent most oil spillage which results from limited intensity hull ruptures due to groundings. This report supports the finding that double bottoms offer a significant degree of protection from oil pollution in the event of a grounding accident."

What this report fails to point out is that double bottoms will only protect against groundings, and will have no utility in the case of collisions or rammings. Since collisions and rammings occur even more frequently than groundings, and result in about the same amount of oil outflow, there is no reason to require full double bottoms and not allow for flexibility in how the defensive spaces are arranged.

Clearly, this report was never intended to be a competent and unbiased study, but was prepared merely to provide support to the Senate bill. This is a clear distortion of the purpose of the OTA.

Just how one-sided this OTA report actually is, becomes clear when one reads the comments of the members of the review panel. This panel, charged with reviewing the OTA study on tanker safety, was made up of university professors, consultants, members of the National Research Council, and representatives of the petroleum, salvage, and tanker industries. Three of the review panel members objected to the conclusions drawn with regard to double bottoms and suggested that both sides of the controversial issue be fully presented. One panel member even requested that if counter-arguments were not presented in the report, then his letter, which outlined some of these counter-arguments, should be added as a minority opinion. All of these requests for full and fair treatment of the issue were denied by OTA. In the face of such evidence, how can one even pretend that this study is competent and unbiased?

Mr. Speaker, I will include the texts of three documents containing the concerns I have just referred to at the conclusion of my remarks, including a letter of July 8, 1975, from W. O. Gray to Mr. Peter A. Johnson, a letter of June 25, 1975, from Mr. E. C. Broun, Jr., to Mr. Robert W. Niblock and a memo dated June 27, 1975, from Mr. James E. Mielke to Mr. Lester S. Jayson.

Let us now look at what the effect would be if this bill were to pass.

First, it is certain that requiring double bottoms would increase construction costs. As I stated earlier, estimates of the amount of the increase vary widely, from 2 to 13 percent. But there is no question that construction costs will rise. This cost increase will be reflected in required freight rates and will, in turn, be passed on to consumers of the petroleum products. Since everyone either uses oil and gas directly, or uses some product or service which uses oil and gas, every American would face price increases as a result of mandatory double bottoms.

Although this bill only requires double bottoms on U.S.-flag ships operating in U.S. waters, the Ports and Waterways Safety Act states that the same regulations must apply to foreign vessels operating in U.S. waters. Therefore, it seems that the increased cost of double bottoms would not disrupt the competitive balance between U.S. and foreign-flag vessels. However, the mandatory double bottom requirement only applies to vessels constructed after a certain date.

Now, foreign fleets have made major expansions in the past decade with vessels that do not meet the new specifications. Under the proposed bill, they would not be subject to the new requirements. Neither would they be required to retrofit to meet the new requirements.

Conversely, this country's tanker fleet is in the beginning stages of its expansion. The new U.S. vessels would be much more expensive because they would be subject to the standards and be in competition with existing lower-cost foreign tankers. Thus our fleet would be put in a crippling competitive economic position. One expert suggested the "net result would probably be to bring the U.S. shipbuilding program to a halt because our U.S. market would continue to be served by foreign vessels contracted for and built before the relevant dates."

Finally, in light of all the evidence I have presented here tonight it seems totally unreasonable to me to require a technological innovation whose benefits are not generally accepted, and whose opponents have a great deal more experience with double bottoms than we do. And to impose a standard that can only hurt American interests, while providing no visible benefits to the marine environment or to the marine industry seems totally senseless to me.

I can only urge you tonight to join me in opposition to this bill. Judging from the support that the mandatory double bottom amendment received last year from both Houses of Congress, it seems clear to me that the Members of Congress are not familiar with all the arguments regarding double bottoms. I ask that you help me in presenting the full story on double bottoms, and clarify this controversial, complex, and potentially harmful issue.

The material previously referred to follows:

EXXON CORP.,
New York, July 8, 1975.

Mr. PETER A. JOHNSON,
Congress of the United States, Office of Technology Assessment, Washington, D.C.

DEAR PETER: In confirmation of our phone conversation last week, I thought it would be well if I recorded here some of my principal views on the May 1975 draft "Oil Transport by Tankers—Analysis of Marine Pollution and Safety Measures."

First I certainly support the comments which Mr. C. L. Crane, Jr. made in my absence by his letter to you of June 16, 1975 and those of Mr. Don Cornett of Exxon USA which you indicated had been received through another channel.

Unfortunately, as a result of my lengthy absence, I have still not had time to review the entire draft report but I do appreciate your indication that our comments will be considered seriously for the final edition of this report.

Since both of my Exxon colleagues indicated that they felt the section of the draft report relating to double bottoms did not appear to reflect full consideration of the various viewpoints, I have briefly reviewed that section and certainly agree with their feelings.

To me the data presented in Tables IV–1, IV–2, IV–3 and IV–4 together with the text of that chapter still give a very distorted view of the work which has been accomplished. As chairman of the joint group some years ago which produced the original U.S. studies of segregated ballast, and the group which produced the AIMS publication, "Tanker Double Bottoms—Yes or No?" it is my firm conviction that the correct answer as to the value of double bottoms in regard to accidental pollution cannot be shown by ranges of cost estimates, numbers of ships so constructed and most particularly by the alleged values for effectiveness given in Table IV–4. The fundamental fact disclosed in the AIMS booklet is that roughly two-thirds of accidental oil outflow from groundings is attributable to total ship losses which, in my recollection, all who have studied the double bottom question agree, would be totally unaffected by the presence of a double bottom. Thus, the values shown in Table IV–4 are in my view erroneous and misleading. Similarly, the wide range of cost increases shown in Table IV–3 also provide a distorted view.

In particular, the lower figures shown near the bottom of the Table clearly reflect unrealistically low values which could only be quoted by yards already tooled up for and with an incentive to produce such vessels in series, whereas for a totally new design approach the proper values would unquestionably be near the middle of the various ranges shown. In fact, however, it is not economics which has persuaded the vast majority of world yards and owners to stay away from this construction, but rather the firm belief that little if anything is to be gained environmentally. These views were expressed not only at the IMCO 1973 Conference, but also in the preparatory meetings both by

governments and owners with far broader experience of this construction than is possessed in the U.S. It is about time that U.S. consultants with no practical operating experience start to listen to the broad experience available around the world.

As I am sure I expressed at our one meeting in April, the environmental problems still posed by tankers are not in my estimation going to be solved by a proliferation of U.S. design feature requirements of questionable value. Instead what we need is stronger enforcement of those international laws already in existence and strong U.S. support of as yet unratified acts, notably the 1973 Marine Pollution Prevention Convention, the 1969 Civil Liability Convention, the 1971 International Compensation Fund Convention and the 1974 SOLAS Convention. These acts together with more stringent future requirements for training and qualification of personnel will provide the improvements desired.

I do not know what form your final report may take, but I must request that if the viewpoints expressed above are not explicitly stated in the report, that this letter be appended to the report as a more accurate representation of the views of at least one of your consultative group.

Very truly yours,

W. O. GRAY.

DRESSER INDUSTRIES, INC.,
Houston, Tex., June 25, 1975.

Mr. ROBERT W. NIBLOCK,
Ocean Program Manager, Office of Technology Assessment, Congress of the United States, Washington, D.C.

DEAR BOB: After a careful reading of the report "Oil Transportation by Tankers—An Analysis of Marine Pollution and Safety Measures" I would like to offer the following comments:

Preface: The stated principal purpose of the report "is to provide a broad factual basis for use by the Congress in further investigation of major issues and resolution of policy questions." I find this purpose to have been accomplished in most all areas except the treatment of double bottoms. There is considerable evidence that double bottoms are not a good single solution to prevention of pollution from groundings and collisions. I refer you to a booklet prepared by the American Institute of Merchant Shipping entitled "Tanker Double Bottoms Yes or No?" and to the report recently submitted to the Senate Commerce Committee by Admiral R. I. Price of the United States Coast Guard having to do with defensive placement of segregated ballast spaces.

ii: It should be pointed out that S.B. 333 in mandating double bottoms for all new tankers greater than 20,000 DWT completely ignores the recent IMCO convention and the advice of the U.S. Coast Guard and the EPA Administrator. It also fails to recognize the desirability of uniform international maritime standards.

iii: The last half of the last sentence on the page "the content of any regulations now proposed are considered as the basis of judging how previous legislation has been implemented." This is a strange remark. If my interpretation is correct, one could state the corollary inference that previous legislation has left room for the judgment of the implementors, which judgment is now questioned by those who would legislate the fine details of the regulations (i.e. double bottoms requirement of S.B. 333). It is difficult not to interpret this statement as a jab aimed at the Coast Guard for not requiring double bottoms after the IMCO Convention had refused to.

DEFINITION OF TERMS

Supertanker

This term has been used to define large ships relative to a given point in time. For instance, a 28,000 tonner was once billed as a supertanker. Because of the adverse connotations that have been given to the terms "supertanker" and "supership", I would prefer to see terminology such as "large tankers" or actually describe the range when it is necessary to refer to large tankers.

Supertanker dimensions

Suggest striking out the comparison of a tanker's cargo to the number of automobile gas tanks that it would fill.

Double bottom

The last line in the double bottom definition appears to be disconnected from the rest of the definition.

Port state

Definition should end after "ship."

Coastal state

Definition should end after the word "ship." Remainder of sentence not related to definition of "coastal state."

I-2—First sentence should read "Tankers offer one of the most efficient means of transporting oil over long distances and the only practical method across oceans.

I-7—Every effort should be made to support ratification of the 1973 Pollution Convention and the other unratified IMCO Conventions such as the 1969 Civil Liability Convention and the 1971 International Compensation Fund Convention.

II-5—Next to last line. "marker" should be changed to "market."

II-14—Footnote to Table II-7 says "plans are underway to increase the size of capacity of each port." Believe new Washington law will adversely affect these plans.

III-1—Last sentence. Relative damage potential should be fairly easy to predict because most tanker accidents occur in areas inaccessible to VLCC's, and the vast majority of VLCC spills will occur several miles from shore.

III-4—Second paragraph. Believe data is available through API or AIMS for tanker oil retention records for Mideast loading ports, where most seaborne oil originates. Extrapolation may not be as large as implied by this paragraph.

III-8—What is definition of "significant environmental hazard," second and third lines from bottom. Do not understand meaning of "migratory habits of marine life can also spread and propagate initial damages."

III-10—The METULA accident. Damage to beaches, birds and marine life as a result of this accident has been reported by Dr. Jennifer Baker of England to be minimal. This report should at least indicate that there is a difference of opinion rather than classify the damage as "substantial."

III-16—Something is missing at the bottom of the page.

III-17—What existing measures to reduce explosions are not widely adopted?

III-18—Last sentence. Do not see how deepwater ports located far offshore can present safety problems to coastal areas.

IV-2—Mid page. It is true that double bottoms have "received greatest attention" primarily as the result of the unrelenting efforts of a few Senators to impose their will upon the entire shipping industry with or without the support of the regulatory bodies.

IV-6—Last paragraph. The statement that "it would appear from the various analyses conducted that double sides and double bottoms can distinctly provide protection" is not correct. It appears true from Mr. Card's analysis but is not substantiated by the AIMS study.

IV-6a—All the data included in Table IV-4 was submitted to IMCO 1973, and that Conference after such deliberation did not impose double bottom requirements.

IV-7—This report should at least enumerate the arguments that are widely made against double bottoms, the primary one being that salvage could be complicated or in some cases made impossible by a severe stranding of a double bottom tanker.

IV-14—Full throttle stopping distance is almost meaningless in the real world of tanker operations. Tankers are not required to stop in areas where full speeds are attained. In areas where short stopping distances are important, tankers move at slow speeds and utilize tugs if needed.

IV-18—In the middle paragraph it is not clear what "the combined turning moment generated at three knots by the rudder and the thruster is two and one-half times greater" than.

IV-55—Last paragraph, first sentence. Most, if not all, tanker operators already maintain contingency plans for oil spills from tankers.

V-10—Item 6. Civil Liability Convention went into effect June 19, 1975. However, not in U.S. because it lacks ratification.

V-14—Something missing between lines 2 and 3.

V-15—Item 4, line 4, "shield" should be changed to "shied."

IV-18—Strike out second and third lines and first word of first line from bottom (lines repeated).

With the exception of the apparent intent to promote double bottoms through this report, I find it to be well balanced and a thorough analysis of most aspects of oil transportation by tankers as related to marine pollution and safety. It could benefit from a more in-depth analysis of the problems being created by the state and national proliferation of oil spill liability and compensation laws.

Sincerely,

E. C. BROWN, Jr.

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., June 27, 1975.

To: Lester S. Jayson, Director.

From: James E. Mielke, Analyst in Marine and Earth Sciences, Science Policy Research Division.

Subject: Comments on "Oil Transportation by Tankers—An Analysis of Marine Pollution and Safety Measures," a report by the Office of Technology Assessment.

In the overview, the OTA Tanker study represents a fairly comprehensive review of the problems involving oil transport by tanker. The study attempts to maintain a level of objectivity and present all sides of each issue. In most cases this is accomplished very well. However, in the area of technology assessment, particularly with regard to the controversial issue of double bottoms/double hulls some additions could be made for the sake of completeness. The report omits to mention one of the major concerns over the use of double bottoms, namely the increased instability derived from a higher center of gravity. This concern has been repeatedly raised in congressional hearings and before the IMCO Conference in 1973.[1] Furthermore, the findings of the British, French, Greeks, and Japanese, and the experience in Norway where double bottom tankers have been in use with less than satisfactory results were not mentioned. The Norwegians have experienced difficulty in mooring, difficulty in salvaging, the necessity to install detection devices to monitor gas seepage between the bottoms, and have found that double bottoms contributed to pollution from leakage of oil into the double bottom and subsequent discharge through the bilge.[2] The French have suggested that IMCO prohibit double bottoms as a threat to the world's oceans.

---

[1] U.S. Congress. House of Representatives. House Report No. 93-1663. Report of the Activities of the Merchant Marine and Fisheries Committee 93d Congress. U.S. Govt. Print. Office 1975.

[2] *Ibid.* p. 123.

A further consideration in this regard, though more a policy matter than technology assessment, is the dilemma repeatedly raised by the Coast Guard and others that enforcement of construction and safety standards in U.S. waters, which the rest of the world will not accept, would result in excluding the 94 percent of our oil imports that are carried in foreign flag vessels.[3] This would, of course, be one means of achieving energy independence.

In general, the report is well researched and should provide a valuable reference of background information for the use of Congress in considering legislation in this area.

PULASKI DAY—OCTOBER 11, 1975

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. NEDZI) is recognized for 5 minutes.

Mr. NEDZI. Mr. Speaker, we study the lives of great men not only to honor them but to learn from them. Casimir Pulaski is an important figure in American history.

On the surface there is some understandable difficulty in appreciating a remote figure in history, be it Pulaski or anyone else. After all, Pulaski died in a battle that took place 196 years ago. Anyone who conceivably might have met him has been gone from the scene a long, long time. The stage was smaller then; the American colonies numbered barely 2 million people, now our Nation has a population well over 200,000,000.

What, one may ask, can we learn from reaching into the distant past for a man's life story?

There are at least two lessons.

The first is that the ideal of freedom has no national boundaries.

The second is that America won its freedom, and preserved it, with the help of men and women who came here from all over the world.

Pulaski himself came from Poland, which was then under Russian occupation. Exiled from his homeland because of his fight for freedom he was attracted to America's struggle.

George Washington recognized Pulaski's excellence of character and his abilities as a soldier. And gave him important responsibilities.

Pulaski was only 31 years old when he died on October 11, 1779, in the Battle of Savannah.

Generations of Americans still honor him because his life clearly helped make possible a better life for the millions who came after him.

He ventured forth, he took risks on matters of principle, and he excelled, Pulaski's was no ordinary life. We will go on learning from it as long as there is a United States of America.

THE AMERICAN WAY OF CANCER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. VAN DEERLIN) is recognized for 5 minutes.

Mr. VAN DEERLIN. Mr. Speaker, the CBS television network will broadcast a documentary next Wednesday, October 15, called The American Way of Cancer. I think it will be a timely, thought-provoking and immensely beneficial program. The subject matter is one of special concern to me as chairman of the Subcommittee on Consumer Protection and Finance of the House Interstate and Foreign Commerce Committee.

The subcommittee's jurisdiction includes, of course, toxic substances control legislation. Many of us have been concerned for some time that new chemical substances are constantly being introduced into the environment without thoroughly gauging their potential for causing harm to health or to the environment. Legislation pending before my subcommittee seeks to provide the public with needed knowledge in this important area. It seems time to end the present casual national attitude we have about the introduction of chemical substances into the air we breathe, into our water, into the food we consume, into the atmosphere and into our work places.

In two previous Congresses, we have come very close to enacting toxic substances control legislation. I sincerely hope we can succeed in this Congress.

The CBS documentary next week will focus our attention on what some have called "the cancer epidemic." It is an epidemic we can do something about. There are reasonable and prudent steps that we can take to protect living Americans and future generations of Americans from exposure to cancer-causing substances. We would be derelict if we failed to act when we have the opportunity. Too many Americans die of cancers which can be prevented.

I hope next week's show will have a wide audience in our country, and I commend it to my colleagues in the House.

ARMS CONTROL IN LATIN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 10 minutes.

Mr. FASCELL. Mr. Speaker, the September issue of Arms Control Today, published by the Arms Control Association, contains excellent articles on the Western Hemisphere. While the issue focuses primarily on nuclear technology and arms control efforts it also discusses conventional arms transfers and efforts at control. In addition to the articles the issue includes a useful bibliography on arms.

Over the years, Congress has evidenced considerable concern over the level of arms purchases by Latin American countries. Many of us have felt, and continue to feel, that the nations of this hemisphere could best use scarce resources to foster economic and social development. To that end we have attempted to legislate restrictions on U.S. arms sales but, as many in this Chamber know, our restrictions have not worked as intended.

But while Latin American arms purchases have continued to mount there are still considerable reasons to be hopeful about the future. The region's overall performance has been good when compared with other regions of the world. Indeed Latin American countries continue to spend relatively little on arms and have made progress in both nuclear and conventional arms control.

Because of the widespread interest in Congress in Latin America in military sales and in nuclear proliferation, I want to bring to the attention of the House three articles from the current issue of Arms Control Today.

PROSPECTS FOR ARMS CONTROL IN LATIN AMERICA

(By John R. Redick)

Conventional wisdom in this country often portrays Latin America as prone to violence, military coups and chronic instability. Such views have an element of truth but overlook the fact that, in comparison to other regions, Latin American countries spend relatively little on military armaments. In addition, no Latin American nation has detonated a nuclear explosive device—although that situation may change in the near future. Latin America is also noted as a region that has produced one partially successful attempt to eliminate nuclear weapons and several conventional arms control proposals (including the recent "Declaration of Ayacucho," see p. 3).

BANNING NUCLEAR ARMS FROM LATIN AMERICA

The effort to eliminate nuclear weapons in Latin America culminated in the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) signed on February 14, 1967, following over three years of intensive negotiations. Negotiations occurred primarily through meetings of the Comision Preparatoria Para la Desnuclearizacion de la America Latina (COPREDAL) in Mexico City and to a lesser degree at the United Nations. The Tlatelolco Treaty is currently in force for 20 Latin American nations (excluding several important states such as Argentina, Brazil and Chile) and provides for the complete military denuclearization of the Latin American area. The Treaty's machinery—the Organization for the Prohibition of Nuclear Weapons (OPANAL) with a small secretariat—permanently resides in Mexico City.

The Treaty prohibits the development or production as well as the receipt or installation of nuclear weapons by any Latin American country. The Tlatelolco Treaty restrictions are more extensive than those of the Non-Proliferation Treaty, as Latin American nations pledge not to permit the deployment of nuclear weapons on their territories under the control of foreign nuclear powers (i.e. no nuclear weapons bases). Under the terms of the Treaty, the Latin American parties are to negotiate safeguard agreements with the International Atomic Energy Agency (IAEA). Although progress in some cases has been slow, this regional treaty obligation has been instrumental in facilitating Latin American acceptance of international safeguards.

Two additional protocols to the Treaty concerned non-Latin American nations. Protocol I pledges non-Latin American countries with possession within the Treaty zone to place them under the same restrictions as parties to the Treaty. Thus far the U.S. and France have refused to sign this protocol (see *Perspectives*, p. 4). Protocol II involves a pledge by nuclear weapons states not to use or threaten to use nuclear weapons against parties to the Treaty. Four of the five nuclear weapons states (excluding only the U.S.S.R.) have signed the protocol. This protocol provoked considerable study and some doubt within the U.S. government prior to its ratification since it represents a self-denying obligation which the United States has avoided elsewhere.

[3] U.S. Congress. Senate, Tankers and the Marine Environment. Committee on Commerce. National Ocean Policy Study. Hearings January 29 and 30, 1975. U.S. Govt. Print. Office, 1975 pp. 24, 84.

However, the current situation as regards the nuclear weapons free zone treaty is uncertain at best. Gaining full support by all Latin American and nuclear weapons states is of vital importance to the ultimate success of the Treaty. The issues are, of course, inter-related—ratification of additional protocols by all five nuclear weapons states will have a bearing on future decisions by Argentina, Brazil and Chile to allow the Treaty to enter into force for themselves. Conversely, nuclear weapons states are likely to give greater credence to a nuclear weapons free zone agreement if supported by all Latin American nations.

For the Tlatelolco Treaty to become a completely effective arms control mechanism, it is essential that there be some degree of accordance among both the states within the zone and significant non-zonal states as to the intent and meaning of the important provisions of the agreement. At present, harmony of views on such issues as "peaceful nuclear explosives" (some Latin American nations interpret the Treaty as permitting them while others do not) and the transportation of nuclear weapons through the territory of Latin American nations does not exist. More significantly, however, at least two Latin American nations, Argentina and Brazil, have publicly announced their intention to detonate "peaceful" nuclear explosives and appear to be on the verge of acquiring a capacity to do just that. Nevertheless, twenty Latin American states have formally renounced nuclear weapons and consequently enjoy the pledge of four of the five nuclear weapon states "not to use or threaten to use" nuclear weapons against their territory. Thus, although incomplete, the Latin American nuclear free zone is an important model for other regions as well as a significant regional step toward general and complete disarmament.

THE SPREAD OF NUCLEAR TECHNOLOGY

While the current situation is extremely fluid, nuclear technology with all its military implications is clearly accelerating in the region. Ambitious nuclear power programs of varying types and sophistication are (or soon will be) producing an unavoidable by-product, plutonium. Although estimates differ it is generally believed that a 1,000 megawatt (mw) power reactor using slightly enriched uranium will produce between 200-300 kilograms of plutonium in a year. Natural uranium reactors produce a far greater quantity of plutonium and the fuel-load may be removed far more easily without a shutdown of the reactor. Approximately five kilograms of plutonium are sufficient for a nuclear device capable of destroying a high-population density portion of a major city such as New York's Wall Street or a similar section of Buenos Aires or Sao Paulo.

Since 1974 Argentina has had an operating 320mw natural uranium power reactor which was supplied by West Germany. A second 600mw natural uranium (CANDU) reactor supplied by Canada will be completed by 1979, and the recent Argentine Nuclear Program 1975–1985, prepared by the national atomic energy agency (CNEA), calls for three additional CANDU reactors in the early to mid-1980s. A heavy water production plant is to be completed by 1980; construction has begun on an industrial scale fuel fabrication facility, and with French assistance, a chemical reprocessing plant capable of separating a militarily significant portion of plutonium will be constructed to supplement the small pilot plants Argentina has possessed for several years.

The Argentine Nuclear Program with its reliance on natural uranium technology, careful insulation from internal politics, and stress on independence is strikingly similar to the Indian program. In addition, a July 1975 inquiry by Senator Abraham Ribicoff revealed the existence of a U.S. intelligence report of a fifty kilogram diversion of plutonium from the Atucha power reactor. Although the U.S. Energy Research and Development Administration has denied that the incident occurred (several influential Senators remain unconvinced) it nonetheless illustrates what could and may easily happen—and the limited U.S. response.

Brazil's first nuclear power reactor, a 626 mw enriched uranium facility, supplied by the U.S., will come into operation in 1977. In a much publicized and highly criticized (in the U.S.) sale, West Germany agreed in June 1975 to build four 1300 mw enriched uranium reactors in Brazil by 1986, and four more by 1990. More significantly, the Germans agreed to supply Brazil with a nuclear package of fuel fabrication, plutonium separation and a "nozzle" enrichment plant. While the agreement is subject to far-reaching IAEA safeguards, and Brazil has pledged not to use the equipment received for the production of nuclear explosive devices, there can be no ignoring the fact that an independent and parallel military program is a clear possibility. This factor, coupled with Brazil's posture concerning peaceful nuclear explosives, opposition to the Tlateloco and Non-Proliferation Treaties, and the extreme secrecy which cloaks all aspects of the Brazilian nuclear program lend credence to a military interpretation.

Elsewhere in Latin America the shift toward nuclear power is also apparent. Currently under construction in Mexico are twin 660mw enriched uranium reactors scheduled for completion in 1977 and 1978, and a larger unit is under serious consideration. Venezuela is reportedly negotiating with Canada and European suppliers for a multiple unit natural uranium facility, and Chile will construct a small power reactor by the early 1980s. The Soviet Union has agreed to assist Cuba in constructing two 400-500mw reactors by 1980 (Cuba has announced its intention to construct a total of nine reactors).

Tlateloco and Ayacucho—both names have a legacy of violence: the former is the site where the last of the Aztec kings fell before the power of Cortes; the latter is the location of one of the great Latin American revolutionary battles. While neither attempt to legally prohibit nuclear or conventional armaments can be considered fully successful—each is significant if only for its promise. For Tlateloco to succeed several factors are necessary: (1) the fostering of regional cooperative measures in the nuclear fuel cycle (including joint or multilateral fabrication, reprocessing and possibly enrichment facilities); (2) cooperation between the region's two principal threshold nuclear powers, Argentina and Brazil, as has been suggested recently by a respected Argentine military figure; (3) resolution of the difficult peaceful explosive issue (including perhaps a cooperative peaceful nuclear explosive service between OPANAL and the IAEA) and, most importantly; (4) a greater degree of cooperation between the principal exporters of nuclear technology. Finally, it is of great importance that Latin American nations continue to develop or perfect all the essential mechanisms and machinery to insure the success of agreements.

Latin America has established an enviable record, compared to other areas, in the regional management of armaments. It is an ongoing process that should be both nurtured and emulated.

AYACUCHO—CONTROLLING CONVENTIONAL ARMS

According to the U.S. Arms Control and Disarmament Agency, 23 Latin American nations received a total of $476 million in armaments in 1973, or considerably less than recent U.S. sales to any one of a number of Middle East nations. In the same year Latin America imported only 5.1% of the world's arms exports, an amount dwarfed by the imports of other regions such as the Middle East, Europe and East Asia. However, the total amounts of weapons imported into the Latin American region have been and remain miniscule on the world scale. And, as Latin American nations are, at present, almost totally dependent on extra-regional sources for advanced weapons (Brazil is a growing exception) bilateral and multilateral agreements of weapons abstinence can have a major positive impact on the peace and security of the region.

The most recent and interesting Latin American endeavor is the so-called "Declaration of Ayacucho" signed on December 9, 1974 in Lima by Argentina, Bolivia, Chile, Colombia, Ecuador, Panama, Peru and Venezuela. The eight-nation declaration, primarily a nostalgic call for Latin American unity, did include a significant paragraph which stated their intention to "create the conditions which will make possible the effective limitations of armaments and an end to their acquisition for offensive purposes so that all possible resources may be devoted to the economic and social development of every country in Latin America." The declaration which was proposed by Peru's former president, General Juan Valasco Alvarado, drew strong praise from U.S. Assistant Secretary of State for Latin American Affairs, William D. Rogers, who declared it "an extraordinary and unprecedented step which could substantially reduce tensions in the hemisphere."

This declaration of principle must be considered in the context of the historical rivalry between Chile and Peru, as well as recent ambitious arms purchases by Peru (including the acquisition of Soviet tanks in 1974 giving Peru apparent military superiority over its southern neighbor). The Peruvian initiative may have been an effort to freeze its advantage, or it may have represented a genuine attempt by an economically strapped military regime sincerely dedicated to promoting national development. Whatever their motivations, Chile and Peru have made significant progress in recent months in defusing their long-standing border controversy.

Obviously, motivating factors impelling the Andes nations to sign the Declaration (Brazil has not joined the effort, and Argentina is backing off) were of a mixed nature. The Ayacucho meeting was followed by a meeting of technical delegations of six of the eight signatories which considered such questions as establishing demilitarized zones and monitoring weapons inventories. A high-level meeting is scheduled for Fall 1975 to discuss further moves in regional arms control. For Ayacucho, the willingness of all Latin American states to translate noble declarations into concrete agreements is essential. Equally important is a willingness of the major exporting nations to respect the will of Latin American nations when clearly expressed.—(*J.R.R.*)

THE TREATY OF TLATELOLCO: THE LATIN AMERICA NUCLEAR-FREE ZONE

As noted in this month's editorial, there are presently twenty parties which are bound by the Treaty of Tlatelolco. The map above shows the Latin American nations which are full parties of the Treaty of Tlatelolco as well as the Non-Proliferation Treaty.

The Treaty of Tlatelolco pledges its members to use nuclear material and facilities exclusively for peaceful purposes, and places all nuclear activities under the International Atomic Energy Agency safeguards system. The primary provisions of the Treaty further obligate its members to prohibit and prevent the following activities in their respective territories:

(1) The testing, use, manufacture, production or acquisition of nuclear weapons.

(2) The receipt, storage, installation, deployment and possession in any form of any nuclear weapons.

One shortcoming of the Treaty of Tlatelolco

is that three of the most important Latin American countries with significant nuclear power capabilities are not bound by its provisions. These nations are Argentina, Brazil, and Chile. Argentina has signed the Treaty but has not ratified it. The Treaty is also not in force for Brazil and Chile, although both nations have signed and ratified it. This is due to the fact that, unlike the other parties to the Treaty, Brazil and Chile have chosen not to waive the various requirements outlined in Article 28 of the Treaty which must be met before the Treaty is binding. These requirements include: (a) that all eligible nations within the zone ratify the Treaty; (b) that the two additional protocols to the Treaty be ratified by the appropriate states; and (c) that agreements on safeguards be concluded with the International Atomic Energy Agency.

Supplementing the Treaty of Tlatelolco are two protocols dealing with nations outside of the Treaty zone. Protocol I requires that outside powers which have territories in Latin America agree to place their territories under the same pledges as the parties to the Treaty. Of the few nations in this category, the United Kingdom and the Netherlands have signed the Protocol, while France and the U.S. have not.

American territories within the Treaty zone include Puerto Rico, the Virgin Islands, the Canal Zone, the Guantanamo naval base in Cuba. The U.S. has declined to sign Protocol I mainly on the grounds that since Puerto Rico and the Virgin Islands have such an "integral relationship" with the U.S., the U.S. "must deal with disarmament policies affecting other nuclear powers." However, U.S. officials have stated that America will act consistent with the spirit of the Treaty.

Protocol II obligates the nuclear weapon states which have signed it to respect the denuclearized status of the Treaty zone and not to contribute to violations of the Treaty. Most importantly, its signatories pledge to "undertake not to us or threaten to use nuclear weapons against the Contracting Parties of the Treaty . . ." Of the nuclear weapons states, the U.S., France, the United Kingdom, and the People's Republic of China have given this pledge, while the U.S.S.R. has not.

This protocol is especially noteworthy for two reasons: it is the first international arms control agreement that the People's Republic of China has signed, and it is the first time that the U.S. has even entered into an obligation that restricts the use of nuclear weapons. The U.S. "non-use" of nuclear weapons pledge concerning the parties to the Treaty of Tlatelolco was given with certain understandings. These primarily include the American understanding that the pledge not to use nuclear weapons applied only to treaty powers and not to other nuclear powers, states outside the Treaty zone that have territory within it, or to Cuba since it is not a party to the Treaty. Furthermore, the U.S. stated that it would consider an armed attack by a member of the Treaty which was assisted by a nuclear weapon state as incompatible with the member's obligations to the Treaty. The United States signed Protocol II on April 1, 1968, and it entered into force for the U.S. on May 12, 1971.

POSTING OF INTEREST RATES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Mrs. COLLINS) is recognized for 5 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, last March I introduced legislation, H.R. 4990, to require lending institutions to post their current interest rates charged for various categories of loans made to consumers. The bill would amend chapter 3 of the Truth in Lending Act to require the Board of Governors of the Federal Reserve System to establish through regulations the various categories of consumer loans. The lending institution would be required to post the current interest rates in clear and conspicuous language and to situate the notice so that it would be easily visible to individuals entering the creditor's premises.

This legislation is necessary because consumers are either unable to obtain from a central source, such as the Fed, or from many lending institutions, the basic lending rates for various consumer loans. In this time of tight money, as well as in good times, it is important for a consumer to be able to shop around for what she or he wants, whether it be a new TV, a car, or a loan.

On March 6, the House Government Operations Subcommittee on Commerce, Consumer, and Monetary Affairs, of which I am a member, received testimony from Dr. Arthur Burns, Chairman of the Board of Governors of the Federal Reserve System, on the availability of consumer interest rate information. Dr. Burns stated that neither he nor the Fed, had the proper authority to release any of the consumer interest rate information which they had solicited from a number of banks across the country. Further, Dr. Burns felt that because this information had been solicited by the Fed under a promise of confidentiality, the primary responsibility was to the banks rather than to the people.

After Dr. Burns delivered his statement, I asked him if there were any way, in his judgment, that the American people could get this data on a broad scale. In reply, he said:

> You could have legislation requiring each commercial bank to post its interest rates on certain types of loans.

H.R. 4990 is a product of that colloquy. This legislation will enable consumers to easily and readily gather interest rate data from lending institutions in their communities and to decide which institution offers the most reasonable rates. This will increase the competitive spirit among various lending institutions in any given community to the benefit of loan seekers.

Mr. Speaker, this is legislation which requires serious and immediate attention. It is my hope that the 94th Congress will be able to report to the American people that it has surged forward in a variety of ways to insure that they will be able to better cope with the present economic conditions.

THE LIBERTY AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. MCDONALD), is recognized for 30 minutes.

Mr. MCDONALD of Georgia. Mr. Speaker, the average American is acutely aware that he is rapidly losing his liberty. Government takes 48 percent of his income in taxes, while inflation devalues the remaining 52 percent. The marvelous, highly productive economy, of which he is a part, once free, is now grinding to a halt under the massive weight of Government controls. Decisions that were once his to make—the kind of food he eats, the kind of car he drives, how and where his children are educated—are now being made by Government bureaucrats.

In short, he is losing control over his life and faces a bleak and uncertain future. But what can he do about it? The Government has grown so huge and complex that he feels helpless in attempting to control it. Where would he begin. Going about it piecemeal—abolishing a welfare program here, a regulation there, and restoring a few freedoms along the way—would take forever.

There is, however, a much faster and simpler way of reducing the size and power of Government and restoring individual liberties: amend the Contsitution to reinstate the constitutionally limited Government envisioned by our Founding Fathers. The Constitution is a document designed to limit the power of Government and it is because Government has grown far outside the bounds of the Constitution that we are losing our liberty. An amendment that restored proper limits on Government power would automatically eliminate programs and policies that have infringed on the rights and freedoms of Americans.

Such an amendment already exists. It was introduced in the present Congress as House Joint Resolution 23 by JOHN ROUSSELOT of California, STEVE SYMMS of Idaho, and myself. Known as the Liberty amendment, it has been introduced in previous Congresses and has been approved by the legislatures of seven States, including my own State of Georgia. Its text is as follows:

> SEC. 1. The Government of the United States shall not engage in any business, professional, commercial, financial, or industrial enterprise except as specified in the Constitution.
>
> SEC. 2. The constitution or laws of any State, or the laws of the United States, shall not be subject to the terms of any foreign or domestic agreement which would abrogate this amendment.
>
> SEC. 3. The activities of the United States Government which violate the intent and purposes of this amendment shall, within a period of three years from the date of the ratification of this amendment, be liquidated and the properties and facilities affected shall be sold.
>
> SEC. 4. Three years after the ratification of this amendment the sixteenth article of amendments to the Constitution of the United States shall stand repealed and thereafter Congress shall not levy taxes on personal incomes, estates, and/or gifts.

Since its introduction on January 14 of this year, I have had numerous requests for information on just what it would accomplish. Often these requests are in the form of questions, the answers to which in turn generate further questions. In response, I have prepared the following series of questions and answers on the Liberty amendment.

1. "What is the Liberty amendment?"

The Liberty amendment is a proposed amendment to the U.S. Constitution which would put an end to the Government engaging in business enterprises that are not constitutionally authorized.

Getting the Government out of these businesses, returning them to State jurisdiction and private taxpaying enterprise, would cut the cost of Government more than half, and thereby end the need for the Federal individual income tax, which would be repealed.

The first section provides:

The Government of the United States shall not engage in any business, professional, commercial, financial or industrial enterprise except as specified in the Constitution.

This clause will cut the cost of Government in half, making possible the repeal of the 16th—income tax—amendment, cut the national debt tremendously, get us back to a balanced budget and stop inflation.

2. "Just what are some of the businesses the Government is in? Name a few."

Some of the larger are the Commodity Credit Corporation, a loan company; the Tennessee Valley Authority, a gigantic producer and distributor of electric power and fertilizer; and the Federal Crop Insurance Corporation, an intrusion into the insurance field. The book, "Where the Money Went," by Willis Stone, gives the details of these and many more and lists over 500 others.

3. "But how about all those people who will lose their jobs if the Liberty amendment is adopted? What will they do?"

Employees of Government businesses that are bought will be better off than before because under private ownership and management the business will prosper. This happened in the case of the General Aniline & Film Co.—now the GAF—and others already sold. Employees of Government businesses with no valid economic purpose, will probably have to look for other jobs, but if they want work they will have no problems. When people have money now taken by the income tax, their increased purchasing power will expand all kinds of business which will create a great need for more employees. There will be more jobs than people to fill them.

4. "How would you get the Government out of these businesses? Who would buy them?"

These business enterprises would be bought by people who want to invest their money, just as other businesses are bought and sold. In 1965 the General Aniline & Film Co., which the Government seized at the beginning of World War II, was sold as a stock corporation. The shares were offered on the open market, and in 1 day 11 million shares of stock were bought for more than $300 million.

A few years earlier the Inland Waterways Corp. was sold in a matter of days for $11 million, although its book value at the time was only slightly over $3 million.

Any businesses that have a valid economic reason for existing would be salable. Those which are economically unsound and guaranteed money losers would be liquidated through the sale of their assets. The proceeds of these sales would reduce our national debt by approximately 25 percent.

All of this would make practical the fourth section of the Liberty amendment which provides:

Congress shall not levy taxes on personal incomes, estates and/or gifts.

5. "How can Government get along if the income tax is repealed? What will they do for money?"

The latest Federal budget shows that individual income taxes supply only 42 percent of the Federal revenue; the rest comes from other sources. There is ample documentation to prove that getting the Federal Government out of these unauthorized businesses would cut the cost of Government at least 50 percent, while revenue is reduced only 42 percent, would give a surplus of 8 percent.

6. "Is the only purpose of the Liberty Amendment just to get the Government out of business and to repeal the income tax?"

Partially. The Liberty Amendment will get the Government out of those businesses it operates without constitutional authority. As a consequence, Government costs will be reduced to such an extent that the Federal Government will not need the personal income tax. The main purpose of the Liberty Amendment, however, is to restore the Constitution to full force and effect. Then the Government will be confined to the business of governing—of protecting individual liberties—and no longer compete with its own citizens.

By confining the Government to its constitutional functions, we solve our major problem—inflation. Repeal of the income tax will increase take home pay 20 percent without changing the rate of pay or the price of things.

7. "Why amend the Constitution? Is not there an easier and quicker way?"

In almost two centuries our Constitution has been amended a comparatively few times. The first 10 amendments—Bill of Rights—were added almost immediately after the Constitution was ratified—in December, 1791—and there have been only 16 added since then. This may seem too slow, but any amendment is unique in that it supersedes anything preceding it which is contrary to it.

Only through an amendment, will we be able to correct the present distortion of our basic law. The Liberty Amendment will clarify the terms of our freedom, rectify the current conflict between Government and people, define our economic liberties and force the Government to abide by that definition. The 16th amendment—a direct tax upon incomes—can only be nullified by another constitutional amendment which repeals it. There is no other way.

8. "You talk of Government taking away our freedoms. What freedoms have I lost?"

Year after year our freedoms have been shrinking, by restriction upon restriction, tax upon tax, edict upon edict. Here are a few of the many freedoms lost which were once considered your natural right as Americans.

You do not have sound money any more.

You are not free to plan your future as inflation makes your dollar buy less and less.

You can neither rent, sell, buy, nor exchange without political control.

Neither an employer nor an employee can establish a wage by mutual consent.

You can not operate a business without Government consent and restrictions, and without acting as tax collector.

A farmer can no longer grow crops without permission.

A doctor can no longer keep his patient's history confidential, or serve patients without Government intervention.

You no longer can receive a full day's pay for a full day's work.

You no longer have any real privacy. Bank accounts are open to scrutiny, personal affairs are fed into computers, and the last vestiges of privacy are fading into memory. Your private life is no longer private.

9. "If Government continues to grow bigger and bigger, what is going to be the outcome?"

The answer is simple. Growing at its present rate, there is but one ultimate answer—we shall soon have a totalitarian government. Whether we call it communism or by some other name, the despotism imposed will be as terrifying as any other in history. This trend can be reversed through the application of the Liberty Amendment.

10. "Haven't there always been waste and corruption in government?"

Waste and corruption in government are nothing new. The bigger government grows, the greater are the opportunities for pork-barrel politics, and the takeover of economic power and resources.

It was this that caused the American Revolution, and our Founding Fathers tried to prevent its recurrence through our Constitution of strictly limited powers. The Liberty Amendment is designed to bring these violations of the Constitution to a screeching halt.

11. "Was the progressive income tax invented by Karl Marx?"

No, Karl Marx did not invent it. The progressive income tax is almost as old as recorded history, and is the historic way by which people have been subjugated. Every tyrant in history has used it successfully, in one way or another, so Karl Marx included it as one of his 10 rules in the Communist Manifesto. The men who drafted our Constitution carefully prohibited a progressive income tax, but this was nullified in 1913. Therefore, the income tax is part of the Constitution and part of our law and the only way to get rid of it is through another amendment.

12. "Is not the Federal income tax unconstitutional?"

The Federal income tax is completely constitutional as long as we have the 16th amendment. The state that it is unconstitutional is wishful thinking. All of the hideous consequences of the 16th amendment will remain with us until it is repealed as the Liberty Amendment provides.

13. "Is not the progressive income tax the fairest kind of tax because it is based on ability to pay?"

It may be made to sound fair, but it does not work that way. Actually, it is a form of slavery, draining the life energy

of a person, penalizing success, and destroying initiative.

If you are poor enough, you do not pay; and if you are rich enough, you do not pay either. If you are a responsible productive worker, you carry the load. Tax foundation figures prove you work until the middle of May each year just to pay taxes.

14. "Why eliminate the personal income tax? Why not reduce taxes gradually?"

This question is usually asked to divert attention from the Liberty amendment, designed to cut spending not authorized by the Constitution, which will remove the need for the income tax. Eliminating the Federal income tax is the only way to get tax relief for the people.

Political candidates may talk about cutting taxes, but historically this never happens. The application of the Liberty amendment can actually do it.

15. "But what will replace the income tax?"

Nothing need replace the income tax. Reduced spending imposed by the Liberty amendment will remove the need for income taxes. Recent Government budgets estimate that only 42 percent of revenue comes from individual income taxes. Excise taxes, duties, and imposts and other miscellaneous revenues provide the other 58 percent of revenues. The amendment will cut spending 50 percent, removing the need for income taxes and make tax cuts possible in other areas.

16. "How are you going about getting the Liberty amendment passed?"

The fifth article of the Constitution prescribes two valid methods for amending the Constitution. An amendment may be proposed by two-thirds of both Houses of Congress concurring; or the legislatures of two-thirds of the several States—34—may require Congress to call a Constitutional Convention to propose such amendments, which, in either case, become a part of the Constitution when three-quarters—38 States—ratify a proposed amendment.

The Liberty Amendment resolution is being advanced in both ways. It is now pending in Congress as House Joint Resolution 23. It has also been approved by the Legislatures in seven of the sovereign States and is pending in several others.

17. "Why are you going to State legislatures to amend the Federal Constitution?"

The fifth article of the Constitution provides this method of causing the amendments to be proposed. Then, too, the States must eventually ratify to make it a part of the Constitution. This country consists of a union of sovereign States which hold the only power to ratify amendments and State legislatures hold concurrent power under the Constitution to initiate such amendments as they, the States and the people within them, require.

18. "Who's behind the Liberty Amendment? Where does the money come from?"

The folks behind the Liberty Amendment are just ordinary people with an extraordinary desire to hold fast to the ideals on which this country was founded. The organization is nonpolitical, nonpartisan, nonbigoted, nonsectarian, and certainly nonprofitable. Its aim is to educate the public on the values of the Constitution and the means of restoring it before it is too late. Neither big business nor big labor, per se, has subscribed to the Liberty Amendment. Its financial support depends upon contributions—some small, some larger—from folks in every State. With the exception of an understaffed headquarters office, everyone is an unpaid volunteer, including national chairman, directors, State chairmen, committeemen and members.

19. "Why allow only 3 years for the Government to sell all those businesses? Won't they need more time than?"

Section 3 of the Liberty Amendment specifies that:

"The activities of the United States Government which violate the intent and purposes of this amendment shall, within a period of three years from the date of the ratification of this amendment, be liquidated and the properties and facilities affected shall be sold."

Three years is adequate and we have ample proof of it. Inland Waterways Corp. was sold in a matter of days. The General Aniline and Film Corp., nationalized in World War II, was sold on the open market in a single day for more than $300,000,000. The liquidation of the entire synthetic rubber industry, was accomplished and fully paid for by private enterprise in less than 9 months. These and many other cases are discussed in the book, "Where the Money Went."

Properties and facilities affected that are not sold within the 3 years will revert to state jurisdiction.

20. "I think the Liberty Amendment is a good idea, but isn't it too late to do anything?"

No. It is not too late. It is never too late to stop the process of political confiscation as long as the amendment process can still be employed.

21. "Why do politicians make wild promises to give 'something to everybody' even when they know they cannot according to the Constitution?"

Men of high integrity in their personal lives often enter politics and adopt a new set of values in a game of bargaining for power. When they acquire a thirst for power, they resent being hampered by the Constitution, the Liberty Amendment, or anything else.

Legislators can be restrained, however, by the voter at the polls who will vote against every candidate who violates the Constitution. Know what the Constitution guarantees, and then require all candidates and officeholders to support basic American principles.

22. "Is not the Constitution too old-fashioned for today's complex, computerized society?"

Our Constitution, written almost 200 years ago, appears made for today's world which accents youth and change. The Constitution of the United States is a most revolutionary document, because it was based upon the radical idea that men should be left largely free to pursue their own affairs.

The men who drafted the Constitution foresaw that our life style would change, but human nature would not.

They built into the Constitution safeguards to make it possible for people to control the avarice and bullying instincts of politicians when they taste power. As Thomas Jefferson said:

Let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution.

23. "Does the 'general welfare' clause in the Constitution mean that the Government is responsible for our well-being?"

Probably one of the most misused phrases is the "general welfare clause." It is often taken out of context and distorted unmercifully. The term "general welfare" appears only twice in the Constitution: once, in the Preamble as one of the general purposes of the Constitution, and again in article 1, section 8, as one of the reasons why the Constitution grants to Congress certain specified powers. The two words—general welfare—are just two descriptive words in a phrase, within a clause, within a single sentence which is 18 paragraphs in length. It is used by the unscrupulous as a peg on which to hang their pet schemes which violate the intent and purposes of the Constitution.

24. "Do you think the courts that now ignore the Constitution will abide by the terms of the Liberty Amendment when it is added to the Constitution?"

Of course they will. Once the people speak, and the Liberty Amendment is added to the Constitution, all courts and other Federal agencies will be compelled to abide by it.

As a classic precedent for this: more than a century ago slavery was lawful in certain States. The courts were ruling that it was lawful in other States, regardless of State laws and State constitutions. This was the conflict which brought about the Civil War. The 13th amendment resolved the question by abolishing slavery and involuntary servitude. That amendment invalidated hundreds of court decisions and statutes, and the question was settled with apparent permanence. Similarly, the Liberty Amendment will restore the equities and justice of the Constitution as written and wipe out all court decisions, statutes, Executive orders, or bureaucratic directives and regulations which are contrary to it.

25. "If only Congress has the power to write Federal laws, where does the President get his authority to issue Executive Orders, such as ceilings on rents, prices, and wages. And how about all these other edicts?"

Executive orders originally were issued by the Chief Executive to members of the executive branch relating to the conduct of their assigned duties. This has changed until now they have the power of law. The fact that it has been accepted as law by the administration does not make it any more legal.

An Executive order which assumes a legislative power is improper as it has no constitutional authority. The President has no legitimate power to issue Executive orders that legislate. Neither does any agency of Government have any power to issue "regulations" which legislate. Congress alone has the power to legislate, as provided for in article 1, sec-

tion 1 of the Constitution and limited as article 6, paragraph 2 provides.

26. "The book, 'Where the Money Went,' says the Patent Office, the Central Intelligence Agency, Defense Department, and other agencies will be affected by the Liberty amendment. Would these have to be sold?"

No, these agencies and a great many others on the list will not be abolished, because they do have important constitutional functions, but those activities which are not constitutionally authorized will end.

These agencies appear in the book because their activities have extended into areas not constitutionally authorized.

The Patent Office, for instance, has produced electronic equipment in competition with private enterprise. The Defense Department is operating railroads, barge lines, hotels, restaurants, saloons, and they even manufacture ladies underwear. The Central Intelligence Agency, according to the U.S. budget, is engaged also in roadbuilding, real estate, and property management.

27. "Who, other than the Federal Government, could possibly carry out the really big jobs, such as flood control, or drought relief?"

Individuals, local districts, and States have the ability to handle all such problems themselves without depending upon Washington, D.C.

Actually, the Federal Government spends our tax money lavishly, while pretending to do for us what we can do better for ourselves. The big jobs they undertake almost invariably are badly done and cost twice as much as they should. When a crisis arises the problems are of a local nature, interest is high, and the people directly affected are far better able to know and work out their own problems than someone from the Federal Government.

Hoover Dam was built by private enterprise, whereas Tennessee Valley Authority was built by the Federal Government and so far it has cost the taxpayers billions of dollars. Our Constitution grants to the Federal Government no authority to take on responsibility for such things as disaster relief or flood control.

28. "How could local and State government get along without Federal aid to finance such things as care of the handicapped and the needy?"

The only way the people within our States and localities can ever handle these local problems is by stopping federal intrusion into our domestic affairs. The Federal Government's job is to govern and regulate and protect us from external dangers. It is failing in this, its assigned task, while assuming the power to invade sovereign States to meddle in the problems of people and their localities.

It is commonly believed that the Federal Government owes its citizens help in every form, but it has no such authority. When the Federal Government gives to one person, it must take from someone else. If you are a taxpayer, it is your money that is being thus misused. As a people, Americans are the first to rush to the aid of those less fortunate. If we could take home a full pay check, we would provide our local facilities and private charities with the means for handling all problems of the handicapped and needy.

29. "Will the Liberty amendment force use to abandon such projects as space exploration and super-highways?"

Not necessarily. It will return to the people only those activities which the Federal Government has taken over without constitutional authority. A great highway system was built under local jurisdiction and paid for by local taxes or gasoline taxes at the pump. These expanded from country lanes to superhighways, and only recently has the Federal Government invaded this field, expanding the costs and producing not a single mile of road that could not have been done better within the local jurisdiction at far less cost.

The Federal Government has a valid interest in space from a military standpoint, but the assumption that only Government can carry through large projects is not correct. For example, Telstar was designed, built, and launched by American Telephone & Telegraph Co.

30. "Do you not believe that Federal aid to education is essential if every child is to have an equal opportunity?"

No one will dispute that every child should have a good education. The question is, whose responsibility is it? The Constitution clearly does NOT give that responsibility to the Federal Government, therefore Federal aid to education lacks constitutional basis.

"Education" per se is not mentioned in the Constitution, and, consequently under the 10th amendment, this activity is reserved to the States. Federal aid to education produces Federal control of education; and this has proved most detrimental.

31. "How will the Liberty amendment affect civil right for all minority groups?"

When the Constitution is restored, everyone, regardless of race, will enjoy equity and equality before the law. The Liberty Amendment is a friend to all minority groups, for its purpose is to preserve and guarantee true civil rights to all people—equally. Some people have been encouraged by certain politicians to expect very unequal "civil rights," through the enactment of special interest laws and special subsidies.

The only rights anyone is guaranteed as a U.S. citizen are those that are granted by legal means, and these clearly delineated in the Constitution.

32. "What effect, if any, will the Liberty Amendment have on veterans' benefits?"

Almost every family numbers a veteran among its members. Adding the Liberty Amendment to the Constitution would in no way nullify the obligation of Congress to recruit and provide for an armed force and to care for that force and everyone in it. Service-connected disabilities would be an obligation, as always, and the powers and obligations to care for the Armed Forces would be in no way affected. The abuses developed in this field will, of course, stop.

33. "How will the Liberty Amendment affect the Indian lands, the Indians and their reservations?"

The Liberty Amendment will emancipate Indians, as the 13th amendment emancipated the slaves in 1863. Few people realize the utter poverty of the Indians who are wards of Government. The incident at Wounded Knee brought attention to the plight of the American Indians, who are supposed to own their own reservation land, but have no real control of it. The Bureau of Indian Affairs controls those lands, and the Indians cannot improve their environment or themselves.

Indians must be elevated to the status of first-class citizens, rather than wards of the Government. Because the Liberty Amendment deals specifically with economic freedom for all people, the Indians will be set free—free to administer their own lands, to improve, develop, buy and sell—just the same as every other person in this country.

34. "If the Federal urban renewal program should end, how could we possibly modernize our cities?"

The modernization of cities must rest with the people, at the local level of government, for that responsibility is not given to the Federal Government under the Constitution.

The Federal urban renewal program has used our tax dollars to drive out property owners, often in the lower income group, and then turn them over to affluent and generally politically powerful persons for renewal devised by the bureaucrats.

Private citizens, unhampered by the horrendous burden of taxes, Government restrictions and regulations, would pridefully invest their money and effort to keep their cities up to date.

35. "What will happen to farm subsidies? Can the American farmer survive without help from the Federal Government?"

The farm subsidy program is probably the most tragic example of what happens when government disregards the Constitution and intervenes in free enterprise.

Farm subsidies have raised the price of farm products and consequently increased the consumer's food bill. The bulk of the billions in subsidies go to the factory-type operations which have driven out the real farmers. And every farmer—big and small—has lost the freedom to plant the crops of his choice and sell the product of his toil at the best possible price in the free market.

John Scott of Gilby, N.C., states the case:

> We who remain on the farms and ranches of this nation are fighting for survival. We simply cannot endure a continuation of the restrictions, regulations, and meddling that beset us these forty years . . . We need an end to federal farm programs . . . We ask for freedom to run our own farm business; for a free market of supply and demand.

And we, who pay the food bill, ask for the same.

36. "What about the social security system under the Liberty amendment?"

Until recently there were few dissenting voices on the subject of social security, but it is now being given much

scrutiny. The facts now being revealed show social security is: First, not insurance because the so-called premiums we are forced to pay are really a tax on wages, paid into a general fund. Then Congress appropriates those funds to many Government agencies. The tax on wages and funds appropriated to social security are not necessarily similar. Second, the operation is not social, because it is compulsory. Third, it is not secure, as it is subject to any alteration at any time, and there is no contract. Neither is it solvent, because it operates without funding as required of insurance companies, and is, therefore, hopelessly in debt with contingent liabilities of almost half a trillion dollars.

Unfortunately, social security is so many different things that its ultimate fate must be left to the Supreme Court for decision. If the Supreme Court decides it is not constitutional, benefits will stop instantly, which would be a tragic situation for many elder citizens.

The Liberty amendment, on the other hand, provides 3 years in which to transfer the operation from unfunded political mismanagement to funded, ecomonically sound, private management, controlled by law so that present and future beneficiaries will go right on receiving their checks.

37. "What about medicare? Will this be eliminated by the Liberty amendment?"

The "medicare" program is similar to that of the social security system as a whole. With or without the Liberty Amendment the Supreme Court will some day have to settle the question. With the Liberty amendment in force, the basic structure can be returned to private enterprise which has adequate medical and hospital plans working advantageously. The present system is unfunded and deeply in debt because of its contingent liabilities.

Actually, all our people will be in much better position with private insurers, under a firm contract supervised by law.

38. "Is not the Federal Government responsibile for seeing our air and water is not polluted?"

Polluted water and smog-filled air is of deepest concern to the people of the community. Only they can solve the problem. Absentee bureaucrats in Washington, D.C. can not. As an example, Pittsburgh was once our dirtiest city and politicians kept it that way. A Smoke Committee was organized by private manufacturers and industrialists and whipped the problem, with the result that today it is a clean city. The same can be done elsewhere.

39. "Our entire transportation system is in terrible shape, particularly railroads and local rapid transit operations. If the Federal Government does not take over and operate our transportation, who will?"

Once upon a time we had the most efficient transportation system the world ever knew, all built and operated by private enterprise. Over an interval of a great many years, our local and national systems have been destroyed by the strategy of freezing revenue while increasing costs and taxes to the point of bankruptcy. This has been followed by a "takeover" by the same political schemers and bunglers who created the problem, pretending to save them "for the people."

The only solution is to confine the Government to constitutional limits and permit the people themselves to build the network of transportation needed by today's mobile millions.

40. "If the Liberty amendment gets the Government out of business, what will prevent large companies and wealthy individuals from creating monopolies?"

Competition in a free market prevents monopolies, because the rewards for production, invention, development, and service are profits. Profits are dependent upon giving the customer what he needs or wants to survive. If one fails to serve the customer, he is out of business and his competition takes over.

The exception to this is when political pressure is applied, and politicians take over. Watergate illustrated how this system works. The Liberty amendment would tend to eliminate monopoly and open up a truly free market.

41. "How did the Federal Government get so much land? What will happen to all the 'public lands' under the Liberty amendment?"

The Federal Government had no authority to hold back any public lands from the States as they were created, or to "take" any land in any State except as the Constitution provides.

Herbstreith & King's book, "Action for Americans," tells how much land Government has taken.

The Constitution confirmed the terms of the Northwest Ordinance. All States were to come into the Union with rights and powers equal to the original States—in which the Federal Government had no property rights whatsoever—except first, as land might be purchased, second, with the consent of the legislature of the State in which the same shall be, and third, for agreed upon and needful purposes, such as arsenals, magazines, forts, dockyards, et cetera.

Now we find that only two-tenths of 1 percent of Alaska was originally subject to the jurisdiction of the State. In Nevada the Federal Government holds 87 percent of the land area, in Utah 66 percent, and in Oregon 52 percent, in Idaho 64 percent, and in California 45 percent of the land area. Under the Liberty amendment the 40 percent of the land area now under Federal control will be restored to State jurisdiction.

42. "Much of the land under Federal control seems to be worthless desert or rugged mountains. Who would buy land like that?"

Land that appears worthless to one may be highly regarded by another. An example is the land just north of the California-Mexico border which was the most barren area imaginable, but men of vision saw possibilities in this arid desert land well below sea level, and now the Imperial Valley is a garden without compare. There is no worthless land.

43. "If private land developers get control of this land, would not they destroy the natural beauties and add to the problems of ecology?"

Federally controlled lands, turned back to State jurisdiction, will be under the watchful eye of the people most concerned with preserving their beauty and usefulness. State and local authorities will make the laws regarding them. An absentee landlord in Washington is not as concerned with the future of the land as are the people of the community involved.

44. "What will happen to our national parks and forests when the Liberty amendment is adopted?"

There is no reason to fear that parks and forests will be destroyed because they will be in State jurisdiction. There is nothing to indicate that Federal control has any merit. State, city, and county parks are generally better maintained then national parks, because the local interest is higher.

The same may be said of forests. Records show that the ravages of fire and disease in a national forest are far greater than in State forests, and greater in State forests than in private forests. The obvious reason is that trees in a private forest represent a salable crop, while in public hands they are an avenue to political power.

45. "Can the States be trusted to maintain their parks and monuments and preserve these for posterity?"

Under the Constitution each State was sovereign and held complete jurisdiction over the land and activities within its boundaries. As the Parks and Monuments are located within States, the States are naturally better stewards of their own property than any Federal agency could be.

The Constitution intended the State would hold exclusive jurisdiction over all land and activities within its own boundaries. The Liberty amendment will restore that concept.

46. "What will be the effect on the Federal Trade Commission when the Liberty amendment is put into operation?"

According to the U.S. Government Organizational Manual of 1971–72 (page 439), the Federal Trade Commission was established to "promote free and fair competition in interstate commerce through prevention of price-fixing agreements, boycotts, combinations in restraint of trade, and other unfair methods of competition." Nice words, but this agency has become, along with others, the proponent of price fixing, boycotts, and various restraints of trade that hamper private enterprise. This may well be an attempt to cripple private enterprise and clamp a tighter political grip on private affairs. Under the Liberty amendment the Federal Trade Commission will hold limited regulatory powers.

47. "How will the application of the Liberty amendment affect the Federal Communications Commission?"

The Federal Communications Commission holds some valid regulatory powers, but they have no constitutional authority to control, punish, or dismember any channels of communication. Like so many Government agencies, the Federal Communications Commission has assumed powers that it simply does not have. Media slanting is one of these. The Liberty amendment will stop the despotic control of broadcasting privi-

leges of stations at odds with FCC bias.

48. "What about the effect of the Liberty amendment on the Labor Relations Board?"

The National Labor Relations Act of 1935 authorized a National Labor Relations Board to investigate and settle labor disputes. It has no constitutional authority for existence, but it has wielded enormous power. We can assume the Liberty amendment will stop the arbitrary control of labor, management, and industry by edicts that have no constitutional authority. Realistically, the only legitimate jurisdiction the Federal Government has over labor and management is within the ranks of Federal employees.

With the National Labor Relations confined to its proper sphere, the terrifying power of the labor unions over workers will be drastically reduced.

49. "Is not the Food and Drug Administration too valuable to be terminated by the Liberty amendment?"

The Food and Drug Act came into being in 1907 as a regulatory power to clear up the practices of unscrupulous meatpackers, unsanitary stores, and quacks in the field of medicine.

As a check on the purity and safety of the foods and drugs we consume, this agency appears to be within the constitutional intent; but like all political organizations, it has gradually expanded. Without adequate proof or legal justification, it has attacked and prohibited many products that are not the concern of this agency. The constitutionally authorized functions of the Pure Food and Drug Administration will not be affected by the Liberty amendment. Their excesses will be stopped.

50. "How will Government be able to control labor and business monopolies if the Liberty amendment removes or limits the regulatory powers of the Federal Government?"

It is ironic that so many people are worried about labor and business monopolies, and yet it apparently never occurs to them that the monopolist to fear most is Government itself. In Communist countries government has a monopoly on all activities, and the people have no economic freedom. With our Federal Government controlling 40 percent of the land area and 20 percent of the industrial capacity of this Nation, we are facing the same disaster.

Free enterprise destroys monopolies faster than can government control.

51. "What is the value of the land and personal property held by the Federal bureaus?"

The Committee on Government Operations of the House of Representatives maintains a continuing inventory of the real and personal property held by the Government. Their June 30, 1970, report gives a figure of $435 billion for the worldwide holdings as of that date. The estimate is extremely low and some properties—such as the famous Presidio in San Francisco inventoried at $1—are undervalued in their appraisal. One thing is certain, if even half of these properties—the ones held without constitutional authorization—are sold at half of book value, the recovered amount will be well over $100 billion.

52. "Supposing all these properties and facilities are not sold off as expected, or do not sell for the prices expected, then what happens?"

If the properties are not sold within 3 years, the Federal Government must relinquish them anyway, and anything left unsold will revert to State jurisdiction for disposal or retention, as the case may be. Prices may vary in the liquidation process, but the main point is that these properties will be removed from Federal hands and restored to State jurisdiction and private taxpaying ownership. The consequent saving from not maintaining these bureaucratic empires will exceed what we now pay in income taxes. There is a bargain to the American taxpayer worth working for.

53. "Now that you have the activities of these agencies that are not authorized and listed, why not get Congress to eliminate them?"

Theoretically this sounds like a good idea, but do you know of anyone who has enough power in Congress to override the pressure of the Federal bureaucracy? The bureaucracy has billions of our tax dollars at their disposal every year, and their lobby keeps the pressure on Congress for more power and more appropriations, endlessly. The only way to remove their power is to dry up the tax fountain with the Liberty Amendment.

54. "What effect would the Liberty Amendment have on the plan for regional government, which would concentrate all power in Washington?"

A concerted effort is being made to brainwash the American people into accepting not only regional government, but a new Constitution. Books advance the idea, articles in prominent magazines, TV programs and speeches by people who must be misinformed or are outright enemies.

The Liberty Amendment will stop these attacks and restore the sovereignty of the States. It will automatically outlaw all such designs for the concentration of power from either regional government or a Constitution other than the one we now have, which provides for individual freedom.

55. "Will the Liberty Amendment have any effect on unemployment?"

Unemployment is a tragic fact of life to many people. Surprisingly, the Liberty Amendment will solve much of the unemployment problem. Getting the Government out of business enterprises it operates without constitutional authority would eliminate the staggering losses. This would make possible the elimination of income tax. Workers would then receive about 20 percent more take home pay without any change in their rate of pay. This increased purchasing power would stimulate production and make the economy boom. There would be a demand for new plants, better machinery, more crops, more raw materials and more finished products to meet the accelerated purchasing power. This expansion would create enough jobs to absorb all the labor potential in this country for years to come.

56. "Isn't the Liberty Amendment just a scheme to shift the load of responsibility from the Federal Government onto the back of the State government?"

Not at all. The idea is to get the responsibility back into the hands of each individual. When Government deprives the individual of self determination and individual responsibility, it tends toward a nation of slaves or robots. In a free society, a free man must be self-reliant and help maintain the society of which he is a part. Our Government was limited in power by the Constitution. The purpose of the Liberty Amendment is to stop the concentration of despotic power and redistribute it to the people.

57. "Does not Congress already have the power to sell such properties and repeal or reduce taxes?"

Yes, Congress has such power and has used it on various occasions, sometimes very strangely. For example, Congress did abolish the Reconstruction Finance Corporation, after it had dissipated an estimated $50 billions in tax dollars. While title I of the act abolished the Reconstruction Finance Corporation, title II of the same act created the Small Business Administration, enlarged the General Services Administration, and divided all the residuary powers of RFC between them. The name on the door changed, but now there were two doors instead of one.

The sale of the Synthetic Rubber Industry and General Aniline and Film Corp. was accomplished, but while these were being sold, other businesses were issuing from the prolific bureaucracy. Reinforcing the Constitution will stop this sleight-of-hand process.

58. "If Federal agencies are operating businesses without constitutional authority, why do you not take them to court?"

A good idea, and many persons have tried it; but there is a catch—there is no way to sue Government without the Government's permission, and this is rarely given. The Constitution provides that we, the people, shall be able to "petition the Government for redress of grievances," but the courts have repeatedly shut their eyes to the flagrant assaults against the constitutional rights and powers of the people, and have contended that they have no "jurisdiction" when a bureaucratic "regulation" is involved. The only real court available that can change this situation is the court of public opinion which can restore the Constitution by applying the Liberty Amendment.

59. "Do you not think it is necessary for our Government to keep ahead of Russia in the space race, or the arms race, or the merchant marine, or anything else you may name?"

The United States for a long time has been in first place in most fields. We should continue in that position. The question is, why are we lagging behind now? Is it possible our Government has been so busy playing the dangerous game of world power politics and trying to run everyone else's affairs that they have neglected our safety and liberty? Now we are warned that we need to hurry to keep up, but we are increasingly being hampered in our efforts by regulations and directives and competition from tax-free governmental agencies that prevent

it. The Liberty Amendment will release the vast resources of American inventive genius and production know-how and again give workers the incentive of a full paycheck.

So far as the space race is concerned, the Space Act strangled private incentive by declaring that all inventions dealing with space belong to the Government, instead of to the inventors, as the Constitution provides.

60. "Exactly what is the Federal Reserve System and what will the Liberty Amendment do about it?"

There is probably more misinformation about the Federal Reserve System than about any other one thing. Some say it is a Federal agency; others say that it is privately owned. In 1913 an act of Congress created the IRS to provide us with what was defined as "an elastic currency." This has been done, and in the process our stable currency, based on silver and gold standards, has been replaced by printing press money. The Hoover report of 1955 declared the Federal Reserve to be the first of the 104 banking and lending organizations then being operated by Government. A recent U.S. Government Organizational Manual confirms this. The article "Who Gets The Plunder?" in Freedom magazine reproduced a page from the 57th Federal Reserve report to Congress, showing that in 1970 the U.S. Treasury received 98.9 percent of the earnings, while only 1.2 percent went to the banks compelled to own FRS bank stock. The Liberty Amendment will remove the Government from the banking business.

61. "Can the inflation we have experienced for years be stopped by the Liberty Amendment?"

The spiral of inflation will be stopped when the Federal Reserve System's endless stream of printing press money is stopped. Webster's International Dictionary defines "inflation" as "an increase in the volume of money and credit relative to available goods resulting in a substantial and continuing rise in the general price level." In other words, when money is printed faster than actual production of goods and services, we have inflation.

Our President and Congress constantly spend more money than all the American people combined can funnel into Washington through taxes. Then they translate these deficits into unredeemable printing press money and we have inflation. In 1971, $40 billion of new paper money was printed for the FRS to cover the Government's deficit—thus was created that much inflation.

Yes, the Liberty Amendment can stop inflation.

62. "Does the Government have anything to do with setting interest rates, and what will the Liberty Amendment do about it?"

Economists and the news media have a great deal to say about interest rates, although it is baffling to most ordinary individuals. These days our credit is at the mercy of the bureaucracy that controls money. Interest rates are manipulated by the politically appointed directors of the Federal Reserve System. This manipulation will stop when the Liberty Amendment is in operation. When the happy day comes, credit arrangements will be strictly between the borrower and the lender, based upon the borrower's integrity and ability to repay. Interest rates will become realistic, also, when they are no longer manipulated through political control. After all, it is on this basis America was built.

63. "How about all the tax money that is spent on wars. Will the Liberty Amendment change this?"

The sole function of the Defense Department is to defend this country from foreign aggression. The Liberty Amendment will not cut the obligations of the Defense Department to carry out its specified duties, to defend this Nation on the ground, in the air, at sea, and even in space. The Constitution enforced by the Liberty Amendment, will not permit undeclared "no win" wars, and our defense posture will be improved enormously by getting our defense establishment back into the business of defending, rather than competing with us, as they do now, through thousands of business, industrial and commercial establishments.

64. "Will the Liberty Amendment have any effect on the present law regarding the draft?"

While there is no longer a draft in this country, every eligible male who attains the age of 18 years must register and carry a draft card, presumably to keep a record of eligible strength in case of emergency.

The 13th amendment very distinctly provides that:

> Neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

If we have learned anything from history it is that no conscripted army has ever proved the equal of a free people defending themselves. Returning to the Constitution will prevent the draft, and increase our defense posture because we will be free to defend the most priceless possession of all—Liberty.

65. "Exactly what effect will the Liberty Amendment have on our membership in the United Nations?"

The United Nations building is located in New York City. This country contributes by far the largest amount of money in support of this organization. Some people believe that the United Nations Charter supersedes our Constitution, but this is not true. Nothing supersedes our Constitution as the supreme law, and certainly not the United Nations Charter. The Liberty Amendment will end the pretense that treaty law, the Genocide Treaty, or any other such device can have any valid impact upon our domestic affairs, our industries, our lands, or our activities. It will reduce the United Nations Organization to a forum for the discussion of international affairs and international relations.

66. "Will the Liberty Amendment have any effect upon Communist countries?"

Time and again the wealth and resources of the United States have been diverted to the aid of Communist controlled countries. Apparently the Communist system is incapable of sustaining its own existence. When our Government is confined again to the terms of the Constitution, it can no longer bail out Communist countries when their economy falters, and the enslaved people may be able to establish forms of government of their own free choice.

67. "Unless we have a hand in managing the affairs of some small nations, is there not danger that they will fall under Communist control?"

When the torch of freedom burns brighter in this country through the reestablishment of our Constitution, we will be in a better position to set an example for other nations. The Constitution does not permit this country to maintain the economy of other nations or control their political lives, yet that is what we have been doing. Foreign aid around the world cost the United States people, from 1946 through 1971, a total of $212,880,797,000. The rulers of 3½ billion inhabitants of this world have received aid from the United States. The Liberty Amendment will stop this madness which is destroying us.

68. "Would it not be a good idea to continue foreign aid to help the more friendly countries?"

Foreign aid does not reach the people of any country, friendly or otherwise. It is a gift from the Chief of State here to the Chief of State elsewhere. It only enriches the tyrant. Our Constitution protects us from this device for plunder. Our Government was empowered to gather taxes to protect this Nation from the avarice and cupidity of all the other nations on Earth. It did not grant any administration the power to hand our tax dollars, or the production of our people, to any foreign power. The Liberty Amendment will stop this dissipation of our substance by Government, and will restore the right of people to assist whomever they wish around the world, as they once did.

69. "How will the Liberty Amendment affect such treaties and alliances as NATO, SEATO, and others like them?"

The Liberty Amendment will not alter the right and power of the President, with the advice and consent of the Senate, to enter into any treaty that may be within the authority of the Constitution. A review of the Constitution shows that no treaty can be valid which in any way jeopardized the independence of the United States or any of the separate States or permits any foreign power or combination of foreign powers to exercise jurisdiction or control over the internal affairs of the United States or any of the individual States, whether it be with the U.N., NATO, SEATO, or any other.

70. "Will we be able to defend our country properly under the Liberty Amendment?"

We have already touched on this subject of defense, and should be reassured that the Liberty Amendment will accomplish miracles in this area. At the present time the Defense Department is involved in thousands of businesses without constitutional authority. Divorced from these activities, their total attention will be given to the defense of this Nation, and with the Constitution back in force and effect we will not be involved in undeclared wars. The Constitution wisely separated the power of

declaring war from the power of waging war, to prevent its being declared for the sake of waging it.

71. "Will we still be able to have a strong economy in the fields of mining, agriculture, manufacturing and transportation with the Liberty Amendment?"

All of these activities will flourish incredibly well. Gold and silver production has been stifled; agriculture has been hampered; manufacturers have been in bureaucratic straitjackets; transportation has been strangled. There is no open market. We can expect spectacular new developments in all these fields and every other area of production when the Liberty Amendment is in force.

72. "If the Government does not finance or underwrite research and development, who will?"

The only research and development the Government has any right to be involved in is in the defense of this Nation. Even here, it has been individuals and companies that have researched and devised all methods of production. A man named Colt invented the revolver, and the Army was reluctant to adopt it. An American invented the submarine, and our Navy would not even look at it. The airplane was invented here, and the U.S. was one of the last to adopt it to our defense. Gen. Billy Mitchell was discharged from the Armed Forces because he advocated air power. Government has curtailed real research and development, and our weaponry has suffered.

73. "Exactly what effect will the Liberty Amendment have on our local State and city governments?"

Federal aid to state and city governments sounds good, but the Federal Government has manipulated the States into very dangerous financial situations through "sharing," "matching funds" and managed inflation.

Cities have been drained of vitality by the Federal individual income tax, which syphons away their potential resources, and federal agencies which inject themselves into essential municipal services and make them more costly. Both states and cities will be better off under the Liberty Amendment.

74. "What will happen to the Government's revenue sharing plan if the Liberty Amendment is passed?"

At first glance revenue sharing looks like a splendid idea. The Federal Government gathers a wealth of taxes from the people and then dribbles a little money back to the States and local governments for their own use. Upon further examination, this new device proves to be a take-over of the states, for it is only a small subsidy, and when government subsidizes anything it exerts control.

There are already too many subsidies in existence that undermine our states' prerogatives. Now even their boundaries are being threatened by "regional government" which would replace the individual states with 10 regions.

Restoring the Constitution, as the Liberty Amendment is capable of doing, would take care of all of these questions—regional government included.

A TRIBUTE TO CHRISTOPHER COLUMBUS

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, today I am introducing legislation which would confer honorary citizenship upon the great world explorer, Christopher Columbus.

It was the genius of Christopher Columbus, reflecting the genius of his Italian heritage, which led to the discovery and settlement of America. In so doing, he altered, irrevocably, the course of human history.

It has been observed that the Columbus expedition was multinational in character, and so it was—an Italian captain, commanding Spanish vessels, guided by a Negro pilot reading Portuguese charts. Yet it was the influence of Columbus that was to predominate, and it was in keeping with his pioneering efforts that all the other magnificent European explorations of that period were later launched.

For more than 4½ centuries since that time, the name of Christopher Columbus has been honored, throughout the world, by people of vision, courage, and imagination. Of all the brave explorers in history, none can be said to have exceeded Columbus in daring, skill, and perseverance.

It is difficult to overstate the importance of the Columbian expedition of 1492. Within a few years thereafter an astounding change came over Europe. It was noted by an observer of the time that—

> Men are no longer sighing after the imaginary golden age that lay in the distant past, but speculating as to the golden age that might possibly lie in the oncoming future.

Regathering her strength, England recovered, suddenly, from the fratricidal Wars of the Roses. The church put its house in order. Italy, France, and Prussia were revitalized by a flow of new ideas. The colonizers of America were inspired by Columbus as they opened up the new world.

Thus it is a most fitting tribute that we commemorate this great world figure, Christopher Columbus, as we near the national holiday we have established in his name, by recognizing him as an honorary citizen of the United States of America.

The resolution follows:

H.J. Res. 701

Joint resolution to confer honorary U.S. citizenship upon Christopher Columbus

Whereas Christopher Columbus is recognized as one of the greatest explorers in world history;

Whereas the United States has recognized the extraordinary accomplishments of Christopher Columbus by establishing a national holiday in his name; and

Whereas it is fitting and proper for this Nation to further commemorate this individual who so greatly contributed to the history of mankind, by recognizing him as an honorary citizen of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That honorary United States citizenship is hereby conferred upon Christopher Columbus.

COMMUNITY DAY IN CHAPPAQUA

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, each year the village of Chappaqua, N.Y., celebrates "Community Day," during which local civic, business, recreational, educational, and religious groups set up booths exhibiting their areas of concern and the services they provide.

This year a group of local women, calling themselves WHEAT, organized a booth on the topic of world hunger. They provided information, bumper stickers, balloons, and other items and gave a slide presentation in an effort to call attention to this important issue. A large number of people who visited that booth were inspired to write to me regarding this problem to ask my support for legislation that will help end hunger and malnutrition throughout the world.

I believe that the women who formed WHEAT and set up that booth have performed a great service and deserve ample recognition for their efforts. For my part, I certainly do redouble my longstanding efforts on behalf of proposals to bring about a better distribution of the world's food supply and to encourage more research into how we might best use the Earth's resources to make an adequate diet available to everyone. The recent passage of H.R. 9005, the International Development and Food Assistance Act of 1975, is certainly a step in the right direction, and I am happy to have had the opportunity to support this bill.

Mr. Chairman, I would like at this time to insert into the RECORD the letter which has been signed by many of my constituents and mailed to my Washington office. I think this expresses in a simple, yet poignant way the feelings of so many Americans that this country has a tremendous responsibility to use its vast potential to aid in the fight against hunger:

CHAPPAQUA, N.Y.,
September 13, 1975.

DEAR REPRESENTATIVE OTTINGER: Hunger is a reality that won't go away. People here in the United States as well as in other parts of the world are suffering. Many private agencies are trying to help. But the problem is far too massive. The resources of our Government must be used, especially in terms of long-range strategies that deal with the causes of hunger.

As a congressman, you have the power to work for, to vote for, policies that would identify this country as one which is concerned, as one that is willing to share its resources not for political gain, but because we are all part of the human race.

Too often, our own economic difficulties cause us to lose sight of the desperate plight of others. Today, as we celebrate "Community Day" in Chappaqua, we have been made aware of greater needs than our own. We urge you, as our representative, to support the *Fight Against Hunger* and to take a leadership role in this matter.

CONGRATULATIONS TO BOTH JOHN LENNON AND HIS ATTORNEY, LEON WILDES

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the U.S. Court of Appeals for the Second Circuit issued a decision on Tuesday, October 7, barring the U.S. Immigration and Naturalization Service from deporting John Lennon for a 1968 conviction in Britain for the possession of marihuana found in his London apartment.

The court action was based primarily on two reasons: First, that British law does not require a person to have "guilty" knowledge that marihuana is in his possession, and second, that John Lennon had been singled out and selectively prosecuted as evidenced by the discovery of certain documents and letters to government officials.

Mr. Lennon's attorney, Leon Wildes, is to be greatly commended for his diligence and persistence in seeing this case through to a successful conclusion as well as for his excellent legal skills in shepherding this case through the courts.

However, it is a great source of concern to me that most aliens in this same situation but who are unable to afford such excellent legal counsel as John Lennon could, are still subject to deportation because of the way the law is written.

I have introduced legislation since 1973—H.R. 567 in this Congress—which would amend the Immigration and Nationality Act to allow the Attorney General, at his discretion, to waive the now automatic bar to immigration of aliens who have been convicted, at any time in their lives, of marihuana possession. This bill has been introduced in the Senate by Senator ALAN CRANSTON.

The wording in the law was decided upon in 1960 when marihuana was a felony under both Federal and State law. Now, every State in the union treats possession of minimal amounts of marihuana as misdemeanors or less. In six States, it is decriminalized and a civil fine imposed.

If Jack Ford, who has very courageously admitted to using marihuana, were a citizen of Britain and convicted of possession there and sought residence here, would it not be shameful if he were arbitrarily kept out of this country?

And, additional good news. Yoko Lennon gave birth to a baby boy today, name: Sean Ono Lennon.

The article from the New York Times on the court decision follows:

[From the New York Times, Oct. 8, 1975]

DEPORTATION OF LENNON BARRED BY COURT OF APPEALS

(By Arnold H. Lubasch)

John Lennon yesterday won a major court decision here barring United States immigration officials from deporting him for a marihuana conviction in Britain.

The conviction is not sufficient reason to deport the popular British rock musician from the United States, according to the decision, written by Chief Judge Irving R. Kaufman of the United States Court of Appeals for the Second Circuit.

In the 24-page decision, Judge Kaufman issued a strong warning that "the courts will not condone selective deportation based upon secret political grounds."

This alluded to Government documents that were submitted to the court, indicating that the Nixon Administration started deportation proceedings against Mr. Lennon in 1972 for fear that the former Beatle would make appearances in the United States promoting opposition to the then President.

Judge Kaufman declared in the decision that the 1968 conviction of Mr. Lennon, which resulted in a fine for possession of marijuana found in his London apartment, failed to provide sufficient grounds to exclude Mr. Lennon from the United States.

DECISION IS 2 TO 1

In the 2 to 1 decision by the Court of Appeals, written with the consent of Judge Murray I. Gurfein and a dissent by Judge William H. Mulligan, Judge Kaufman ruled that the conviction did not make Mr. Lennon an "excludable alien" because the British law did not require him to have "guilty knowledge" that there was marijuana in his apartment.

Mr. Lennon, who said that tomorrow was his 35th birthday, has been living here with his wife, Yoko Ono, who is expected to have a baby next month.

"It's a great birthday gift from America for me, Yoko and the baby," Mr. Lennon said of the court decision.

Last month, the Immigration and Naturalization Service, citing Mrs. Lennon's pregnancy as "humanitarian grounds," said that it was temporarily suspending its efforts to deport Mr. Lennon, but that the deportation case would remain pending.

According to the Government documents, which Mr. Lennon's lawyer, Leon Wildes, obtained from the Government under court orders, Senator Strom Thurmond, Republican of South Carolina, wrote a "personal and confidential" letter to the then Attorney General, John N. Mitchell, on Feb. 4, 1972, suggesting that action against Mr. Lennon could avoid "many headaches."

Attached to the Thurmond letter was a memorandum from the files of the Senate Internal Security Subcommittee asserting that "a commune group" was preparing to go to California to disrupt the 1972 Republican National Convention and that "a confidential source has learned that the activities of this group are being financed by John Lennon."

A second memo from the same files contended that "radical New Left leaders" planned to use Mr. Lennon "as a drawing card to promote the success of rock festivals" to obtain funds for a "dump Nixon" program.

"If Lennon's visa is terminated," the memo added, "it would be a strategy countermeasure."

A subsequent memo from the Deputy Attorney General Richard G. Kleindienst to Raymond F. Farrell, then Immigration Commissioner, turned over the Thurmond letter and the memo that had accompanied it to the Immigration Service on Feb. 14. 1972.

Mr. Kleindienst asked in his memo to Mr. Farrell if there was "any basis" to bar Mr. Lennon from the United States.

Then, Sol Marks, the Immigration Service's New York district director, noted in a memo for his files on March 2, 1972, that an immigration official in Washington had informed him by telephone to begin the deportation proceedings against Mr. Lennon.

Citing these documents, Mr. Lennon's lawyer told the Court of Appeals that "there is substantial reason to believe that official governmental action was based principally on a desire to silence political opposition squarely protected by the First Amendment."

In his ruling yesterday, Judge Kaufman said that the decision to bar Mr. Lennon's deportation was based on the court's interpretation of the immigration law regarding foreign convictions, but added "a brief word on Lennon's contention that he was singled out for deportation because of his political activities and beliefs."

"We do not take his claim lightly," Judge Kaufman said, adding his warning against deportation for political reasons.

"If, in our 200 years of independence," the judge said, "we have in some measure realized our ideals, it is in large part because we have always found a place for those committed to the spirit of liberty and willing to help implement it.

"Lennon's four-year battle to remain in our country is testimony to his faith in this American dream."

COMMERCE DEPARTMENT AIDS ARAB BOYCOTT

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I find it shocking that the Department of Commerce is using Government resources to circulate Arab invitations to bid that contain anti-Israel boycott provisions. This is in direct contravention to our country's antiboycott policies and further abets religious discrimination against certain of our American citizens. I have protested this practice by the Department of Commerce in a letter to Secretary of Commerce Rogers Morton today. I might also note that the Anti-Defamation League of B'nai B'rith has filed suit in Federal court to stop the Department from circulating Arab tenders that contain these boycott provisions. I hope that the Secretary will change the Department's policy and we will not have to wait for court action.

My letter to the Secretary follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 9, 1975.

Hon. ROGERS MORTON,
Secretary, Department of Commerce,
Washington, D.C.

DEAR MR. SECRETARY: We have had correspondence in the past couple of months about the Department's refusal to disclose the list of American firms which reported Arab requests to participate in their boycott of Israel. As I previously indicated, I find it reprehensible that the Commerce Department should shield such boycott requests, particularly since they are in direct violation of the country's anti-boycott policies.

Today, I am writing about a similar abetment of Arab boycott efforts by the Department in circulating Arab bid invitations containing restrictive trade and boycott provisions against American companies or individuals who trade with or otherwise support Israel. How can the Department justify using American government resources to further Arab boycott practices? Not only is the Department contradicting the country's anti-boycott policy as legislated by the Export Administration Act, it also is effectively promoting discrimination against certain citizens because of religion.

It is my understanding that the Department has acceded to the Arab demands for inclusion of these boycott provisions because of its concern that the United States not lose Arab business. The fact is that while the Arab countries may be rich in petro dollars, they do not have the industrial resources of our country. And so they need our products and it is we who should be demanding concessions, not acceding to them. If the Arabs see the United States cow before this demand, the dollar impact of which is probably relatively small, they will much more readily attempt to coerce us in the future into even

greater concessions. Coercion unchallenged begets greater coercion. Even were the dollars to be important, a more important matter is involved and that is the honor of the United States. Don't you agree with me that by cooperating in a boycott against our own citizens, the United States is forfeiting its honor, if not violating the law. In my opinion you are violating the law.

The Department's offer to stamp Arab bid invitations containing boycott provisions with a reminder of American policy, while perhaps better than nothing, is a little ludicrous. The Department is joining in the circulation of bids whose provisions run contrary to the very anti-boycott policy it is charged with implementing. Have any companies listed the Department of Commerce as a co-conspirator with an Arab company in reporting requests for boycott compliance? Effectively, your circulating such boycott demands makes you a party of the Arab boycott operations.

Sincerely,

EDWARD I. KOCH.

ADMINISTRATIVE LAW AND GOVERNMENTAL RELATIONS SUBCOMMITTEE HEARINGS ON FEDERAL BUREAUCRACY RULEMAKING

(Mr. FLOWERS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FLOWERS. Mr. Speaker, I wish to announce that the Subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary will hold hearings on October 21, 22, 23, and 29, 1975, on the bills H.R. 3658 and H.R. 7689 and companion measures, dealing with congressional review of administrative rulemaking.

How many times have we all heard our constitutents complain about the runaway rulemaking of Federal agencies? How many times, Mr. Speaker, have we in this House individually and collectively voiced our own frustration and disapproval of various agencies seemingly thwarting the will of Congress through their promulgated rules and regulations?

It seems to me that our people deserve accountability in their National Government, and not only in the legislative branch. These proposed bills to be considered by my subcommittee offer some promise of achieving a greater degree of accountability and responsibility in administrative rulemaking by the vast Federal bureaucracy.

ENERGY EXTENSION SERVICE TO BE ESTABLISHED IN ERDA

(Mr. THORNTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. THORNTON. Mr. Speaker, I am introducing, today, legislation calling for the establishment in ERDA of an Energy Extension Service to analyze, develop, and extend to the American public, information and assistance in making good use of energy conservation opportunities.

The Service would be patterned after the Agriculture Extension Service of the Department of Agriculture and would, where possible, use existing institutional resources to achieve energy conservation goals which would not adversely affect our Nation's economy and productivity.

I hope this bill will also focus attention on the need to place greater emphasis on the role of energy conservation and the avoidance of waste of energy resources.

No single piece of legislation will answer all of the energy problems but I think an Energy Extension Service can be an important part of an answer.

A CANADIAN SALUTE TO OUR BICENTENNIAL

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, 200 years ago when the American revolution began there were many in our country who hoped that the citizens of our great northern neighbor, Canada, would join us in our endeavor. Canadians, however, chose otherwise and went on later to achieve their own independence in their characteristic way. That outcome of history has been most fortunate for us both. That North America can boast two of the world's foremost democracies and not just one has been of great mutual benefit to both our nations. Each of us has been able to learn from the experiences of the other and to enrich our own cultures as a result of the cross fertilization of peoples and ideas across our border.

Next week our long history of friendship with Canada will be marked by a significant cultural event as Canada joins in our Bicentennial celebration by sharing with the people of the United States the best of Canadian cultural life. For 2 weeks, beginning next Monday, the largest Canadian cultural program to be seen outside of Canada will be presented at the Kennedy Center and at various locations throughout the Washington area.

I want to take this opportunity to express my own appreciation to the people and Government of Canada for so generously contributing to our Bicentennial celebration.

Mr. Speaker, knowing of the great affection of the Members of the House toward Canada and the great respect for the quality of Canada's cultural achievements throughout the United States I want to share with our colleagues both the text of a Bicentennial greeting to the American people from the Honorable J. H. Warren, Ambassador of Canada, and the schedule of events of the Canada Bicentennial Festival:

A MESSAGE FROM CANADA

Your Bicentennial Celebrations, in which Canada is so glad to play a part, are far more than just an Anniversary. They mark a reaffirmation of the principles and ideals upon which your nation was founded—a restatement of the faith, optimism and creative vision which have kindled your history and inspired your great achievements.

Canadians join in your celebrations with the special warmth and pleasure of close friends and neighbours. In the year ahead countless Canadian hands will be joined to yours in greetings throughout the land. And we do not forget the spirit of your splendid participation in our own Centennial Celebrations, especially EXPO '67.

The Government of Canada will be expressing its good wishes in many and various ways. The first salute will be here in the Nation's Capital. Internationally renowned Canadian artists and companies will be bringing you the best of our theatre, opera, ballet, choral and popular music as a Festival gift to the people of the United States.

For two weeks in mid-October you will be able to enjoy the largest cultural presentation ever offered by Canada outside its borders and the most comprehensive programme of the performing arts ever brought to Washington by another country.

We wish to celebrate with you. Come celebrate together at The John F. Kennedy Centre and the National Theatre Oct. 13–Oct. 26, 1975.

Many Happy Returns from the Government and people of Canada.

J. H. WARREN,
Ambassador.

CANADA—BICENTENNIAL FESTIVAL WASHINGTON OCTOBER 13–26, 1975

SCHEDULE OF EVENTS—OCTOBER 1975

Concert Hall—Kennedy Center

Friday 17—Monique Leyrac.

Sunday 19 (Matinee Recital)—Maureen Forrester.

Saturday 25—Mendelssohn Choir and Canadian Brass.

Sunday 26 (Matine)—National Arts Centre Orchestra with Louis Quilico.

Opera House—Kennedy Center

Tues. 14; Wed. 15; Thur. 16; Fri. 17; Sat. 18 (Mat. & Eve.).

Sun. 19 (Mat. Only)—Royal Winnipeg Ballet.

Wed. 22; Fri. 24; Sat. 25—"La Belle Helene" (NAC Opera).

Thursday 23—"Louis Riel" (Canadian Opera Co.).

National Theatre

Mon. 13 thru Sat. 25—Shaw Festival Co. "The Devil's Disciple."

Opening Night (Wednesday, October 15)—7:30 p.m.

Mon.-Thur. Eve. 8:00 & Sat. Mat. 2:00.

Friday-Saturday Eve. 8:00.

Matinees Thursday, October 16, Wednesday, October 22, and Saturdays, October 18 and 25—2:00.

CANADA BICENTENNIAL FESTIVAL—EXHIBITS AND OTHER PRESENTATIONS

Inuit (Eskimo) sculpture, carvings and prints, Sept. 30–Oct. 18, Franz Bader Gallery, 2124 Pennsylvania Avenue, N.W.

Toni Onley watercolours and prints, October 14–November 16, Gallery 4, Alexandria, Virginia.

Charles Pachter Paintings, October 5–31, McLean Gallery, 1372 Chain Bridge Road, McLean, Va.

Eskimo wall-hangings, appliqué and creative stitchery, Oct. 5–31, McLean Gallery, McLean, Virginia.

Collected work of Billy the Kid by Canadian Playwright Michael Ondaatje, October 10–November 9, Folger Theatre.

Alma Houston; Director Fine Arts, Canadian Arctive Producers Ltd. "Traditional Eskimo Art and Contemporary Form"—a discussion with National Film Board films at luncheon. Monday, October 20—Woman's National Democratic Club.

Canadian landscapes, an exhibit of contemporary Canadian prints will be exhibited at the International Monetary Fund Building, Nineteenth Street, Northwest, October 21–31.

A crafts show with six native craftsmen will be featured by Hecht Company at Tysons Corner, Virginia and Columbia Plaza, Columbia, Maryland, October 9–25.

The Royal Canadian Mounted Police will

schedule concerts in and around Washington, October 9–13.

The Pellan collection of costumes by Alfred Pellan created for Le Theatre du Nouveau Monde along with prints and masks will be exhibited in the south end of the Grand Foyer at Kennedy Center, October 13–26.

CANADIAN FILM FESTIVAL AT THE AFI THEATER, KENNEDY CENTER, WASHINGTON, D.C., OCTOBER 13–30, 1975

Monday, October 13: 6:00 and 8:30 p.m., Lies My Father Told Me (1975).

Tuesday, October 14: 9:00 p.m., Once Upon a Time in the East (1974).

Wednesday, October 15: 6:30 p.m., Friday, October 17: 9:00 p.m., Wedding in White (1973).

Wednesday, October 15: 9:00 p.m., Friday, October 17: 6:30 p.m., Bar Salon (1974).

Monday, October 20: 6:30 p.m., The Last Anniversary (1973).

Tuesday, October 21: 9:00 p.m., Sudden Fury (1975).

Friday, October 24: 7:30 p.m., The Orders (1974).

Saturday, October 25: 2:00 p.m., Saturday, November 1: 2:00 p.m., Lions for Breakfast (1974).

Monday, October 27: 6:30 p.m., Montreal Main (1974).

Wednesday, October 29: 6:30 p.m., Thursday, October 30: 6:30 p.m., Ordinary Tenderness (1973).

Wednesday, October 29: 9:00 p.m., Action (1974).

WAR POWERS: ZABLOCKI CONTINUES EFFORTS

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, our colleague CLEMENT J. ZABLOCKI has been an outstanding leader in Congress with respect to taking action to clarify and specify the constitutional role of the Congress and the President with respect to the power to make war. CLEM ZABLOCKI took the initiative to hold hearings in his National Security Subcommittee immediately following the so-called Cambodian incursion. From those hearings emerged the war powers resolution which ultimately became the law of the land despite a Presidential veto.

CLEM ZABLOCKI has not been content with the momentous achievement of the passage of a major piece of constitutionally significant legislation by a more than two-thirds majority in both the House and Senate. He has vigorously continued to pursue this issue to insure that the intent of Congress is carried out by an all too reluctant executive branch.

Earlier this year CLEM ZABLOCKI, as chairman of the International Relations Subcommittee on National Security and Scientific Affairs, called in witnesses from the Departments of State and Defense to account for their implementation of the war powers resolution. Testimony was received on the U.S. evacuation from Cambodia and Vietnam and on the *Mayaguez* incident which my own International Political and Military Affairs Subcommittee continues to investigate. Those hearings, entitled "War Powers: A Test of Compliance," have now been printed and undoubtedly will be of great interest to every Member of Congress.

Mr. Speaker, Chairman ZABLOCKI summarized the findings of his subcommittee's hearings both in a press statement accompanying release of the hearings and in an introduction to the hearings. Both indicate that more must be done by the Executive to fully comply with the letter and spirit of the war powers resolution and I would like to take this opportunity to bring both statements to the attention of the House.

The materials follow:

EXECUTIVE CRITICIZED FOR NOT FULLY COMPLYING WITH WAR POWERS

The adequacy of the Executive Branch's compliance with the War Powers Resolution received only "mixed marks," according to Rep. Clement J. Zablocki (D.-Wis.), chairman of the House International Relations Subcommittee responsible for Congressional oversight of the historic legislation.

In an Introduction to recent hearings conducted by the Subcommittee which were released today Zablocki said the Executive Branch was "prompt and seemingly complete" in fulfilling the law's Reporting requirement. In evaluating the Executive Branch's compliance with the Congressional intent relative to the Consultation provision "the record is considerably less adequate," noted Zablocki.

The War Powers Resolution was enacted on November 7, 1973, when Congress overrode a Presidential veto. The law was cited at the time as "historically significant" in that it represented a reclaiming of Congressional power from the Executive.

The law was in force for nearly 17 months before it was implemented and then on four different occasions in a 41-day span between April 4 and May 15. In each instance the implementation was only partial in that it was limited to the Section 4 Reporting provision of the law.

Under the War Powers Resolution (P.L. 93–148) the President is required to report to Congress whenever he commits U.S. armed forces to hostilities or situations involving imminent hostilities. It also requires the President to consult with Congress "in every possible instance" before committing troops.

The hearings conducted by the Zablocki Subcommittee on International Security and Scientific Affairs dealt with reports filed by President Ford on troop commitments involved in the Danang Sealift, the evacuation of Phnom Penh, the evacuation of Saigon, and the Mayaguez incident.

Zablocki described the purpose of the hearings as that of exploring all relevant circumstances surrounding the incidents covered in the four reports. In fulfillment of the Subcommittee's oversight responsibilities it was also the Subcommittee's objective to "assure further effective implementation of the Resolution" by evaluating the nature of the Reporting provision and the relative adequacy or inadequacy of the Consultation effort undertaken by the Executive Branch.

"Given the rather elementary and partial trial runs to which the Resolution has been subjected, it would be unwise to crystalize opinions too soon," said Zablocki. "However, it is not too soon to say that those portions of the War Powers Resolution which have been exercised have worked reasonably well thus far," he added.

In evaluating the relative adequacy or inadequacy of compliance with the Consultation provision Zablocki stressed the importance of Congressional intent as measured against Executive Branch interpretation of that intent. Congress' clear desire was to have a participatory role in the process of decision-making—to be fully and accurately advised of all developing circumstances in any given situation requiring the possible commitment of troops sufficiently in time to have meaningful input into the formulation of such a decision. "It was not the intent of Congress to be merely informed of decisions already made," said Zablocki.

"Measured against that clear directive of intent it is apparent, as reflected by the testimony of Executive Branch witnesses in these hearings, that the Executive Branch proclivity is toward evasive and selective interpretation of the War Powers Resolution," said Zablocki.

WAR POWERS: A TEST OF COMPLIANCE

INTRODUCTION

The War Powers Resolution was enacted on November 7, 1973, by the overriding of a Presidential veto. That fact was perhaps appropriate—albeit no less regrettable—since the underlying basis of the legislation was a reassertion of Congress' constitutional authority regarding war powers. What had been usurped over the years by strong Presidencies was being reclaimed; it was therefore ultimately fitting that this reclamation was accomplished by the full force of congressional assertion in overriding a veto.

Aside from the legal aspects of placing that law on the statute books as Public Law 93–148, there were three frequent but largely unspoken considerations in the minds of the resolution's sponsors.

First, its effectiveness as law would depend as much on the good faith effort of the executive branch's adequacy of compliance as on the determined and vigilant oversight of the Congress;

Second, it would require a war to test the statute fully; and

Third, since it dealt essentially with the awesome and horrible scourge of war, there was the silent hope that it would, as such, never have to be tested.

As it turned out, the law was in force for nearly 17 months before it was implemented and then only partially. In fact, between April 4 and May 15, 1975—a span of only 41 days—the law was implemented on four different occasions, although in each instance the action was limited to the section 4 reporting provisions of the resolution.

Given the historic significance of the War Powers Resolution itself and the rapid fire record in which it came into play, it was not only desirable but necessary that a review of that record be undertaken. In fulfillment of its oversight responsibility for the resolution, that review was executed by the Subcommittee on International Security and Scientific Affairs. Thus, the hearings presented here were called to receive testimony from appropriate administration spokesmen and other interested witnesses.

In large measure the record presented here speaks for itself. Basically, the hearings succeeded in the objective of exploring—in a thorough, impartial, and dispassionate manner—all relevant circumstances surrounding the incidents covered in the four reports.

While the subcommittee's interest was broad, its specific and appropriate concern was to assure further effective implementation of the resolution. To that end the subcommittee concentrated on two key areas: first, the nature of the reporting, and second, the relative adequacy or inadequacy of the consultation effort provided for in section 3 of the resolution.

In attempting any evaluation of complex and challenging questions one is always well-advised to avoid rash judgments. Given the rather elementary and partial trial runs to which the resolution has been subjected, it would be unwise to crystalize opinions too soon. Additional time and study is required before reaching final conclusions or deciding on the need for any possible amendments.

Even with those qualifications, however, it is not too soon to say that those portions of the War Powers Resolution which have been exercised have worked reasonably well thus far. For example, the executive branch reports have provided Congress with a grasp on the incidents to which they referred—a focal point around which to center informed debate. It is also reasonable to assume that the potential for precipitous military action evidenced in the past has been mitigated. Those and other benefits accruing from the enactment of the War Powers Resolution are not to be taken lightly.

A preliminary analysis based in the partial evidence presented here gives the executive branch only mixed marks on the adequacy of its compliance effort. On the one hand, response was prompt and seemingly complete in fulfilling the report requirement. However, in evaluating the executive branch's compliance with the congressional intent contained in the consultation provision, the record is considerably less adequate. In that area, there are many unanswered questions which require further review and clarification.

Any proper appraisal of the executive branch's relative adequacy or inadequacy of compliance with the consultation provision of the War Powers Resolution must begin with a reaffirmation of congressional intent as measured against executive branch interpretation of that intent. Basically, the question centers on the issue of the timing and form of communication between the branches. In brief, Congress intent was that it be fully and accurately advised of all developing circumstances in any given situation requiring the possible commitment of U.S. Armed Forces sufficiently in time to have meaningful input into the formulation of such a decision. Clearly, it was not the intent of Congress to be merely informed of decisions already made. In the fullest meaning of partnership and shared responsibility in foreign affairs, it was the desire of Congress to have a participatory role in the process of decisionmaking. To cite the language of the resolution itself ("Purpose and Policy," section 2): "It is the purpose of this joint resolution to fulfill the intent of the framers of the Constitution of the United States and *insure that the collective judgment of both the Congress and the President* will apply to the introduction of United States Armed Forces into hostilities. . . ." (Emphasis added)

In further elaborating on congressional intent relative to consultation, language from the House committee report on the War Powers Resolution perhaps also bears repeating. That report (House Report No. 93–287) made clear that consultation was not "synonymous with merely being informed." Rather, the report stated, "consultation in this provision means that a decision is pending on a problem and that Members of Congress are being asked by the President for their advice and opinions, and in appropriate circumstances their approval of action contemplated. Furthermore, for consultation to be meaningful, the President himself must participate, and all information relevant to the situation must be made available."

Measured against that clear directive of intent, it is apparent, as reflected by the testimony of executive branch witnesses in these hearings, that the executive branch proclivity is toward evasive and selective interpretation of the War Powers Resolution.

This is not to question motives. Indeed, honest men can and do differ, but one would hope that they do so honorably. In one sure and final analysis, we all—legislative and executive—have the collective responsibility to uphold and abide by the law. To that end these hearings were held. They are now offered to all Members of Congress and the public as a means of stimulating further careful and balanced review. In due time hopefully there will emerge a more effective joint effort of cooperation and full implementation of the War Powers Resolution.

CLEMENT J. ZABLOCKI,
Chairman, Subcommittee on International Security and Scientific Affairs.
SEPTEMBER 22, 1975.

FOOD STAMP FIASCO

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, one of the most pressing issues that this Congress faces is complete reform of the Federal food stamp program. This year alone we are spending over $6.5 billion on the program. The program has gotten totally out of control and must be brought back in line. Earlier this year I joined with 58 of my House colleagues in sponsoring the comprehensive Food Stamp Reform Act of 1975. I feel this legislation contains the answer to ending the waste now present in the program. A recent editorial in the Chicago Tribune accurately points out the sorry state of the current program. For the information of my colleagues I wish to insert it in the RECORD at this point:

THE FOOD STAMP FIASCO

President Ford had his ears pinned back last winter when he sought to raise the price recipients are required to pay for food stamps, and perhaps his critics were right. Raising the price to everybody, including the genuinely needy, was a clumsy way of calling attention to a disgrace that demands immediate attention.

With nearly one out of every 11 Americans getting food stamps paid for at least in part by the taxpayer [in Puerto Rico, the figure is one out of every two], the extent of the fiasco is apparent to almost everybody. Many of us have seen the program abused at first hand: neighbors who seem to have money to spend freely standing ahead of us at the checkout counter to buy steaks with food stamps; or people loading up on snacks with food stamps and explaining blandly that they're for a beach party.

Food stamps have become a way of life at most of our colleges, even among students from wealthy families, and taxpayers are being forced to support strikes by paying for food stamps for strikers [tho steps are being taken to correct both of these abuses]. Last week's News and World Report tells of outright fraud in the use of food stamps and a thriving black market where $1 in food stamps will bring about 80 cents in cash, which can then be used for liquor, drugs, or anything else. Secretary of the Treasury Simon recently called the food stamp program "a well-known haven for chiselers and ripoff artists."

Food stamps were conceived back in the 1930s and revived in 1964 as a double-barreled program to provide a market for farm products and "to provide for improved levels of nutrition among economically needy households." Food stamps are provided on the basis of a family's size and income. A family of four is entitled to a monthly allotment of food stamps worth $154. The amount it pays for them rises from zero if its income is $30 a month or less to $138 if its income approaches $540 a month; beyond that, it is ineligible.

The program has long outlived its first purpose; the problem has become one of a food shortage and rising prices [and while critics wail about relatively small sales of grain to the Soviet Union, almost nothing is said about the vastly greater effect on prices caused by the food stamp program.]

Whatever food stamps have done to achieve improved nutrition has been dwarfed by the cost of abuses and waste. In the last 10 years, the number of people receiving food stamps has multiplied nearly 50-fold from an average of 424,000 in 1965 to nearly 19 million this year. The cost in federal money alone has soared even faster, from about $85 million to $4.9 billion, and this year's cost is expected to be about $6.6 billion. The states pay another $250 or $300 million in administrative costs. What's more, this has happened during a decade in which other welfare costs have grown almost as fast. And as if this weren't enough, Sen. George McGovern says that most of those eligible for food stamps under present rules are not even getting them; if they applied, the cost would rise by another $12 billion or so.

These appalling figures and conspicuous abuses tend to obscure what may be the most wasteful aspect of all: Instead of providing 'improved levels of nuturition,' food stamps are used in large measure to buy status or convenience foods which often provide less nutrition than the cheaper staples that would have been used without food stamps.

This tendency is documented in a study recently made for the American Enterprise Institute by Kenneth Clarkson of the University of Virginia. The study concludes that "if problems of malnutrition are to be reduced, an alternative solution appears to be necessary." It suggests food labeling as to nutritive value, educational programs, and a distribution program handled by local communities.

Whatever the best solution, the present program must be tamed before it gets any more out of hand. Tighter restrictions have already been proposed by New York Sen. James Buckley and Congressmen Philip Crane and Robert Michel of Illinois. When the taxpayers provide money to improve nutrition, they have every right to expect that every dollar they spend will provide a dollar's worth of nutrition and not squandered thoughtlessly. And if the people who need the nutrition can't use the money wisely, then some other way of improving nutrition must be sought.

FEDERAL DEFICITS STILL THREATEN CAPITAL INVESTMENT NEEDS

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, we have been told recently that the budget projections for next year, fiscal year 1977, are for a total budget of around $423 billion. Once again we will be faced with a huge deficit in an economy already facing a Federal deficit this year of at least $70 billion. In order to meet this problem in a timely fashion and to respond to the President's call for a tax cut combined with a budget ceiling, I have introduced a resolution today setting a ceiling on next year's budget of $395 billion. An editorial in the Wall Street Journal from last spring points out the consequences for private investment needs if we fail to practice such restraint as this budget ceiling would impose. The points expressed in the editorial are as true today as they were 6 months ago and I wish to share it with my colleagues:

CROWDING OUT—III

When it finished opening all the envelopes from the April tax returns, the Treasury found itself with $5 billion more than it had expected. Announcement of this pleasant discovery sparked a rally in the bond markets, and by nightfall bond traders who had been cheering our "crowding out" editorials had switched their tune.

One expects bond traders to have that kind of time horizon, but one hopes those thinking seriously about the economy will look further ahead. "Crowding out" does not primarily concern chaos in the bond markets; that can happen, but it is merely a bizarre symptom. The disease itself centers on two far more fundamental things, the rate of inflation, and the rate of capital investment. Bond markets aside, these two fundamentals will shape the progress of the economy over the next several years.

The crowding-out argument consists of a

series of very simple statements: Government borrowing competes with private borrowing. Government borrowing finances government deficits. Private borrowing finances capital investment. Capital investment is a central determinant of future economic growth.

Borrowing is possible only to the extent savings are available to finance it. When borrowing demands exceed savings supply, interest rates rise. At this point the Federal Reserve System has two choices:

The Fed can allow the rates to rise. This means that someone who would have borrowed at the lower rates must drop out of the market. The government will not drop out by reducing its deficit. So private borrowers must drop out by reducing capital investment. Thus the government crowds out investment.

Or the Fed can create enough money to accommodate both government and private borrowers. If the Fed creates money too rapidly, it causes inflation.

We are a bit startled, frankly, that this series of truisms should engender such controversy. There are of course differences over magnitudes, and these differences are important in assessing the likelihood of bond-market chaos and other crises. But the magnitudes are not so important in assessing the impact of government borrowing on capital formation. For whatever the interest rates are, and whether they are at a given moment headed up or down, they would be lower if the government demands were less. These lower rates would mean more private borrowing, and more capital formation. In this sense, the cancellation of planned bond issues over the last six weeks is simple proof that crowding out is now taking place.

Now to say that government deficits are never without costs is not to say the costs should never be borne. We have previously expressed our skepticism about the standard Keynesian view that deficits are in themselves stimulative. We have trouble seeing how it helps for the government to give money to B that it took from A, whether it took from A by taxing or borrowing. The real reasons the truisms evoke such controversy is that while they are truisms, lining them up seriatim points to the Achilles heel of Keynesian doctrine. But the world works in mysterious ways, and just possibly there is some truth to the Keynesian prescription.

In any event, up to some limits a deficit is not very damaging during a recession. Since private loan demand naturally falls, there is room for additional government borrowing before interest rates are dramatically affected. In any event, existing income-support programs will drive up spending as more people collect unemployment payments and the like. Surely we want to support incomes, both for social purposes and economic ones. And the process reverses itself as recovery starts; the deficit shrinks to make room for rising private loan demand.

There are limits to this natural adjustment process, however, and the current deficits are very large. To cover the deficit, the Treasury will borrow some $70 billion of new money in the credit markets this year. By comparison, the largest previous deficit for any calendar year since World War II was $21.9 billion. The strains of Treasury demands are already apparent. Bond issues are in fact being postponed, though since the beginning of the year the Federal Reserve has created money at an annual rate of 7% to 7.5%, already at the top of the range the Fed considers non-inflationary over the next year.

Now comes Secretary Simon's announcement last week that during 1976 the Treasury will need to borrow another $86 billion on top of the $70 billion this year. We all hope, of course, that 1976 will be a recovery year, when private borrowing needs start to climb. And Secretary Simon's estimate is predicated on the assumption that Congress will stick to the spending ceilings set by the House Budget Committee. With this kind of borrowing, it's hard for us to see how the Fed can avoid the choice of allowing a credit crunch to crowd out investment, or boosting the money supply in ways that will unleash a new round of inflation. In fact it will choose the second, and we will be on a new roller-coaster of boom and bust.

Which brings us to the most annoying of all the various criticisms of the crowding-out thesis, that it is fundamentally correct but "premature." This warning comes from both the First National City Bank and Ronald A. Krieger of Goucher College, writing in The New York Times. The crowding-out crisis will not occur until 1976 or 1977, they argue, and to warn of it during 1975 is to cry wolf too early.

Whether or not crowding out goes beyond an erosion of the potential capital stock and becomes a full-blown crisis depends on Congress' spending and taxing decisions, in particular on whether it tries to fight recession by putting into place spending programs that will persist into the recovery phase. In case Professor Krieger and Citibank haven't noticed, Congress is making those decisions right now, every day.

PROVIDING CREDIT ASSISTANCE TO MUNICIPALITIES

Mr. BARRETT. Mr. Speaker, an integral feature of our Federal system of governments has been the ability of State and local governments to borrow needed funds at moderate interest rates in the tax-sheltered municipal securities market. Investors willingly bought municipal securities in the belief that, next to U.S. Treasury obligations, municipal bonds or notes are the safest kind of investments. Brochures issued by bond dealers and underwriters stressed the high quality of municipal securities, particularly if they constituted the general obligation indebtedness of well-managed cities or counties, large or small.

DETERIORATING MUNICIPAL SECURITIES MARKET

Today, the municipal securities market has fallen apart. Investors are reluctant to buy the tax-exempt securities, unless they can be compensated for the high risks they now perceive. In the wake of the temporary default by the New York State Urban Development Corp., investors have lost faith in the "moral obligation" that supposedly backs the securities issued by State housing finance agencies.

Even more devastating are the fears aroused by the financial difficulties now being experienced by New York City. Investors have lost confidence in the ability of municipalities to repay their debts. According to Fred H. Branditz, senior vice president of the Equibank in Pittsburgh:

> There has been a substantial pullback from all kinds of municipal credits by individuals and investors who just are concerned about the unknown.

It does not really matter how well the local government is managed or how affluent its residents may be, they are all paying higher interest rates on their new security issues. For example, Clarence C. Barksdale, president of the First National Bank of St. Louis, reports that affluent suburbs are already paying more on their borrowing because of New York's effect on investor confidence.

Jack Miller, vice president of the Bank of California, noted that the continuing possibility of default on New York obligations "is of such a magnitude to impact negatively on financial markets nationwide." He observed:

> Municipalities in general already have to pay more for their money. And a default would raise questions about the soundness of all municipal financing and would be a severe jolt to all financial markets.

The chaotic condition of the municipal securities market is evidenced by the rapid rise of municipal interest rates. In mid-February 1975, the Bond Buyer Index, a widely recognized barometer of municipal interest rates, stood at 6.27 percent. A month ago it was at 7.34 percent and by last week it had advanced to 7.54 percent, a record high. The Bond Buyer Index covers 20 well-seasoned general obligation bond issues, monthly rated AA or AAA.

Municipalities that have to borrow in this market are forced to pay inordinately high interest rates. The city of Philadelphia sold $60 million of bonds in late July at a net interest cost of 8.83 percent and last week it had to pay 8.8 percent for another $50 million. In mid-August, Detroit sold $20 billion of bonds at 9.90 percent interest. Last week, Cleveland sold $14.3 million of short-term notes at 7.7 percent interest. In addition, a number of small municipalities had to pay in excess of 8 percent for borrowed funds.

Bear in mind, the interest income on these municipal bonds is exempt from the Federal income tax and from State or local income taxes for investors who reside in the same State in which the municipality is located. For an individual in the 50 percent tax bracket, an 8.8 percent yield is equivalent to a before tax return of 17.6 percent, and if he can avoid the State income tax his pretax yield exceeds 19 percent.

High interest rates on municipal securities increase the interest expenses a city or county has to bear out of its limited tax revenues. Thus, at the very time our cities and counties are seeking ways to cut costs in order to avoid raising their tax rates they are confronted with higher interest costs reflecting a deteriorating municipal securities market, in addition to the inflation premium now built into interest rates.

A number of our large cities are on the brink of default on their outstanding indebtedness if they fail to hold down burgeoning costs of public services, especially escalating wages of municipal employees. But their bargaining positions are immeasurably weakened if their interest costs soar to record highs at the very time they are negotiating to limit pay raises and to increase worker productivity.

Under the circumstances, the possibility of defaults on municipal securities is very real, and, notwithstanding the "head in the sand" viewpoint of the Wall Street Journal, if one large city defaults, others are likely to follow soon thereafter. In a letter, dated September 27, to the mayor of Syracuse Dennis Longwell, president of the Chase Manhattan Bank of New York, declared:

Throughout the country the capital market for municipal securities is in turmoil.

Think what will happen if New York City or any other large city were to default. Mr. Longwell concluded:

It can be safely assumed that any failure by either New York State or City to meet maturing obligations will further erode the national market for municipal securities and cause vital government programs at the state, county and local level to go unfunded through the nation.

On September 24, a contingent of mayors testified before the Joint Economic Committee on the need for some form of Federal financial assistance to municipalities facing imminent default such as Federal guarantees of taxable municipal bonds or emerging loans. Now that the mayors have finally recognized that the only kind of Federal financial assistance that can avoid a Presidential veto would involve taxable municipal securities, I think it is time for the Congress to act.

PROPOSED FEDERAL FINANCIAL ASSISTANCE

I have introduced today a bill, to be called the Emergency Municipal Credit Assistance Act of 1975, to alleviate the distress in the municipal securities market and to expand the market for municipal securities. Briefly, the bill would authorize Federal guarantees of taxable municipal securities, coupled with one-third interest reduction payments, that would enable municipalities to borrow funds from private lenders at net interest costs appreciably lower than they can obtain in the congested tax-exempt market.

Moreover, as will be shown later, this assistance will produce a net revenue gain to the U.S. Treasury, with minimal risk to the Federal Government. In addition, the bill would rechannel municipal borrowing for federally aided projects to the Federal Financing Bank, as was contemplated when the Bank was created in 1973.

The idea of Federal guarantees of taxable municipal bonds, coupled with an interest reduction payment is not a new one. It has been around since early 1968 when it was proposed by Congressman PATMAN, following hearings held by the Joint Economic Committee. In 1969 it was included in a tax reform package assembled by Congressman REUSS.

Since 1969, Federal guarantees of taxable municipal bonds have been authorized by the Congress for: First, rural water and sewer loans—by the Farmers Home Administration; second, hospital loans—by the Public Health Service; third, Washington, D.C. Metro bonds—by the Department of Transportation; fourth, new community debentures—by the Department of Housing and Urban Development; and fifth, State housing finance agency bonds—also by the Department of HUD. However, aside from the Metro bonds, there has been negligible use of these Federal guarantees.

In view of the chaotic conditions now prevailing in the municipal securities market and the glum fiscal situation confronting a number of our larger cities, the time has come to make wider use of Federal guarantees of taxable municipal securities. In introducing this legislation, I am mindful of the negative attitude of the administration, especially by the Secretary of the Treasury, toward efforts to rescue municipalities in fiscal distress. But, I am confident that when Mr. Simon studies this bill, he will find that it is fiscally sound from the standpoint of the Treasury.

As will be recalled, on April 30, 1973, the Treasury Department submitted proposed legislation to the Congress that would authorize a 30-percent-interest subsidy on taxable State or local government obligations. Federal guarantees of such taxable municipal securities would appreciably reduce the interest rates at which they could be sold, producing a net savings to both the U.S. Treasury and to the borrowing municipality.

I concur with the long-standing Treasury Department view that Federal guarantees of tax-exempt obligations would result in excessive Federal revenue losses without achieving comparable cost savings for the borrowing units. I also question the wisdom of creating through a Federal guarantee of tax-exempt securities, securities that would be superior to those of the Federal Government itself. However, a Federal guarantee of taxable securities does not result in a security superior to a Treasury bond, but does produce a great deal of cost savings and a net revenue gain to the U.S. Treasury.

Studies by the Treasury Department and by the Joint Economic Committee found that the Treasury loses over 40 cents on every interest dollar paid by municipalities on tax-exempt securities, whereas the interest savings to the municipalities as a result of the tax exemption is less than 30 cents. A Federal interest reduction payment of 33 percent of the interest cost of the taxable bonds would be around 10 percent less than the average marginal tax rate of the investors who are likely to buy such bonds, producing a net revenue gain to the U.S. Treasury.

The borrowing municipality will also achieve a net gain by issuing taxable securities in lieu of tax-exempt bonds, as illustrated by the following. On September 24, 1975, $65 million of U.S. Government guaranteedship financing bonds, maturing in 25 to 28 years, were issued at an interest cost of 9.30 percent. Since federally guaranteed taxable municipal bonds would be of similar quality, but probably with shorter maturities, their net interest costs, after a one-third interest reduction payment, would be about 6 to 6.20 percent.

I doubt whether any city or county that is in financial trouble can borrow in the tax-exempt market on equally favorable terms. However, they do not have to take my word for this comparison. Any municipality that elects to apply for a Government guarantee of its taxable bonds is free to solicit bonds from underwriters on both a tax-exempt and a taxable basis. It could then choose the method of financing that results in the lowest net interest cost.

Over the years, the municipal organizations were reluctant to support taxable municipal security proposals, fearing that they would weaken, if not destroy, the traditional tax immunity accorded to State and local government debt. But today they now recognize that the coexistence of taxable and tax-exempt municipal securities will preserve the tax-exempt option available to State and local public bodies. Sales of taxable securities can be directed at financial institutions that have little or no investment interest in tax-free income. They include private noninsured pension funds and State and local government retirement funds, which are tax exempt, and savings and loan associations, mutual savings banks, and life insurance companies that are in relatively low tax brackets.

To the extent that sales of taxable municipal bonds and rechanneling of the financing for federally aided projects to the Federal Financing Bank, which I shall describe shortly, succeed in reducing the volume of borrowing in the tax-exempt market, there should be a corresponding decrease in tax-exempt municipal interest rates. Investors, such as commercial banks, casualty insurance companies, nonfinancial corporations, personal trusts and wealthy individuals, when confronted with a smaller supply of tax-exempt securities will likely bid up their prices, causing a reduction in tax-exempt interest rates.

Lower tax-exempt interest rates will redound to the benefit of all State and local governments that continue to borrow in the traditional tax-exempt market. In other words, by siphoning out the excess credit demands now prevailing in the tax-exempt market, federally guaranteed taxable securities will help relieve the upward pressure on municipal interest rates. Furthermore, by supporting through security guarantees the fiscally distressed municipalities, the Federal guarantee program will help restore investor confidence in the financial viability of most municipalites, irrespective of whether their securities have Federal backing or whether they continue to borrow in the tax-exempt market without a Federal guarantee.

At this point I would like to introduce a note of caution to the effect that the Federal loan guarantees that would be authorized by my bill would not be automatically given to every municipality that applies for the assistance. Instead, the administering agency, to be called the Municipal Debt Guarantee Corporation, could not enter into a guarantee commitment or contract unless it first finds that the debt service on the securities to be guaranteed is within the financial capability of the borrowing municipality.

In making this determination, the Corporation would take account of the municipality's current and prospective revenues, expenditures and indebtedness and the extent to which the State government irrevocably agrees to provide such assistance as may be necessary to pay the debt service as it becomes due. If the Corporation concludes that the municipality has a fiscal deficit that cannot be met from the existing structure of revenues, it would have to reject the application for the Federal guarantee of

the forthcoming security issue of the municipality.

EMERGENCY GUARANTEES

Where a municipality faces a high probability of default on its outstanding security issues because of budget deficiencies, and is unable to obtain a Federal guarantee of its forthcoming security issues, it may, nonetheless, apply for a Federal guarantee of its outstanding indebtedness.

Under such dire circumstances, and as a means of avoiding a wave of defaults on municipal securities, the bill authorizes the Municipal Debt Guarantee Corporation to guarantee the payment of principal and interest on each of the outstanding security issues of the financially distressed municipality and to make interest reduction payments for the guaranteed securities.

However, the bill expressly prohibits a Federal guarantee or interest reduction payments for securities where the interest thereon is exempt from the Federal income tax. Therefore, to qualify for these emergency Federal guarantees and interest reduction payments, the municipality must arrange for a conversion of its tax-exempt indebtedness into taxable securities. To do so, the municipality would have to offer to the holders of the outstanding securities to exchange taxable bonds and notes for the tax-exempt bonds and notes. The bill prescribes that, aside from their changed tax status, the substitute bonds and notes must be identical to the securities they replace with respect to interest rate, maturity and other terms and conditions.

Holders of the outstanding securities of the financially distressed municipality that are in jeopardy of default are given a choice. They can continue to hold the tax-exempt bonds and notes and take their chances as to what they will recover in the event of default. Or they can safeguard their investment by consenting to exchange their tax-exempt securities for bonds or notes where the interest incomc is taxable. They would thereafter be required to pay a Federal income tax on the interest income depending on their tax bracket.

In effect, this emergency loan guarantee legislation provides a means for the cautious, prudent bondholder to save his investment from the perils of default. In exchange he gives up part of his potential earnings, depending upon his tax bracket. Bondholders who prefer to speculate on the future, can turn down the exchange offer and continue to hold the tax-exempt securities.

For the financially distressed municipality these emergency loan guarantees permit them to reduce their net budgetary outlays for interest costs on outstanding indebtedness without having to go through bankruptcy proceedings. The bill provides that for every tax-exempt bond or note that is converted into a guaranteed security, the Municipal Debt Guarantee Corporation will thereafter pay one-third of the interest cost so long as the security is outstanding. If the aggregate interest cost on the converted securities is $300 million per year, the municipality's cost would decrease to $200 million. The $100 million savings could very well be the difference between a balanced budget and a deficit for the municipality.

The U.S. Treasury stands to gain from the security exchanges since the tax revenues it will receive on the taxable interest income paid to bond holders will outweigh the 33 percent interest reduction payments by a ratio of about four to three.

I fully recognize that the municipal security guarantees authorized by the bill, whether for future bond or note issues or emergency guarantees for outstanding debt, creates some risk to the Federal Government in the event a municipality fails to pay the debt service on the guaranteed securities. To minimize any losses to the U.S. Treasury, the bill prescribes that before a municipality can obtain a Federal guarantee of its securities, it must pledge its receipts of payments under the State and Local Fiscal Assistance Act of 1972 to reimburse the Government for any losses it may sustain as a result of the security guarantee.

This requirement should help assure that the municipalities benefiting from the Federal security guarantees will make every effort to make their debt service payments on the indebtedness as they become due. They cannot afford to do otherwise because they will have to pay for any losses that arise out of their receipts of general revenue sharing payments. Incidentally, this pledge would not apply to any of the municipality's securities, which are not guaranteed.

In his testimony before the Government Operations Committee on September 25, Secretary of the Treasury Simon stated that—

> The general revenue sharing funds have done much to strengthen the viability of our Federal system of Government, a system that is predicated upon the shared exercise of powers and responsibilities. A strong working partnership between Federal, State, and local government is necessary if our democracy is to respond effectively to the needs of our citizens.

What better use can be made of these revenue sharing funds than to provide an incentive to local governments to balance their budgets and to operate within their means? By linking the Federal security guarantees to the general revenue sharing program, my bill provides the critical restraint on local government spending, which Secretary Simon spoke of in his testimony before the Joint Economic Committee on September 24. No large Federal bureaucracies would be needed to monitor this restraint. If a municipality causes a loss to occur under a security guarantee, the loss would be deducted from future general revenue sharing payments, which the Treasury Department administers with a minimum of staff.

FEDERALLY AIDED FINANCING

Contributing importantly to the congestion in the short-term municipal securities market has been the heavy volume of sales of federally guaranteed public housing and urban renewal notes. Of the $17 billion of short-term notes sold by State and local governments in the first half of 1975, $5.9 billion or 35 percent were federally supported public housing and urban renewal notes.

When the Congress established the Federal Financing Bank in 1973, it made provision in section 16 of the enabling legislation for the Bank to purchase these obligations directly so that they would not have to be financed in the crowded tax-exempt municipal securities market.

Recognizing that continued sales of federally aided public housing and urban renewal notes in the tax-exempt market causes upward pressures on municipal interest rates, the Joint Economic Committee in a bipartisan report issued on December 30, 1974 and entitled "Achieving Price Stability Through Economic Growth" recommended that all public housing and urban renewal bonds or notes, secured by an indirect Federal guarantee should be sold directly to the Federal Financing Bank, instead of to investors in the tax-exempt municipal securities market.

Despite these statutory provisions and the recommendations of a key congressional committee, federally aided public housing and urban renewal continues to be financed in the tight tax-exempt municipal securities market, exacerbating the borrowing problems of financially distressed local governments.

I think it is time for this legislative intent and the JEC recommendation to be carried out. Accordingly, my bill makes it mandatory that beginning January 1, 1976 all public housing and urban renewal obligations issued by local agencies for federally aided projects must be sold directly to the Federal Financing Bank.

To facilitate a prompt review of this crucial legislation I have appended the bill H.R. 10113, the Emergency Municipal Credit Assistance Act of 1975, to my statement so that it will appear in the CONGRESSIONAL RECORD.

H.R. 10113

A bill to provide credit assistance to municipalities by expanding the market for their securities through debt service guarantees and other support, while decreasing the cost of borrowing for such municipalities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Municipal Credit Assistance Act of 1975."

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2(a) The Congress finds that:

(1) many municipalities are unable to borrow needed funds in the tax exempt municipal securities market except at unduly high interest rates that reflect the loss of investor confidence in municipal securities;

(2) such high municipal interest rates largely eroded the value of the tax exemption accorded to the interest income on these securities;

(3) the resultant high interest costs have become extra burdensome in the budgets of local governments; and

(4) the consequent financial difficulties now being encountered by municipalities could lead to a wave of defaults that would be catastrophic to the municipal securities market, particularly the banks and other financial institutions that hold much of the outstanding municipal debt.

(b) It is the purpose of this Act to alleviate the distress in the municipal securities market and to expand the market for municipal securities by providing debt service guarantees and rechanneling municipal borrowing for Federally aided projects, coupled with Federal interest reduction payments. Such assistance would enable

municipalities to borrow funds from private lenders at net interest costs lower than are now obtainable in the congested municipal security market; and the Federal financial assistance would produce a net gain to the United States Treasury.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "Corporation" means the "Municipal Debt Guarantee Corporation."

(b) The term "Secretary" means the Secretary of Housing and Urban Development.

(c) The term "municipality" means any city, county or any other general purpose political subdivision of a State and any Indian tribe.

(d) The term "municipal securities" means any bonds, notes or other obligations issued by a municipality that are secured by a pledge of the "full faith and credit" of said municipality.

(e) The term "Federally aided projects" means any public housing project assisted or contracted to be assisted by the Secretary pursuant to United States Housing Act of 1937, as amended or any urban renewal project assisted or contracted to be assisted by the Secretary pursuant to Title I of the Housing Act of 1949, as amended.

ESTABLISHMENT OF CORPORATION

SEC. 101. There is hereby established within the Department of Housing and Urban Development a body corporate to be known as the "Municipal Debt Guarantee Corporation." The Corporation shall have its principal offices in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident of the District of Columbia. The Corporation may establish offices in such other places as it deems necessary or appropriate in the conduct of its business.

BOARD OF DIRECTORS

SEC. 102. (a) The Corporation shall have a Board of Directors (hereinafter referred to as the "Board") which shall consist of five members as follows:

(1) the Secretary, who shall be Chairman of the Board;

(2) one person appointed by the President from a list of three mayors submitted by the National League of Cities;

(3) one person appointed by the President from a list of three mayors submitted by the United States Conference of Mayors;

(4) one person appointed by the President from a list of three county executives submitted by the National Association of County Officials; and

(5) one person appointed by the President from a list of three municipal finance officers submitted by the Municipal Finance Officers Association.

(b) The Board shall be responsible for overall policymaking and general supervision of the Corporation.

(c) The Board shall meet at the call of the Chairman which shall not be less often than four times a year.

(d) Members of the Board, other than the Chairman, shall receive for their services when engaged in the performance of their duties the per diem equivalent to the rate for level IV of the Federal Executive Salary Schedule under section 5315 of title 5 of the United States Code. Each member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title for persons in the Government service intermittently.

EXECUTIVE DIRECTOR

SEC. 103. (a) Subject to the general supervision and overall policymaking of the Board, the management of the Corporation shall be vested in an Executive Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Section 5315 of title 5, United States Code, is amended by inserting at the end thereof a new paragraph as follows:

"(90) Executive Director, Municipal Debt Guarantee Corporation."

GENERAL POWERS OF CORPORATION

SEC. 104. (a) For the purpose of carrying out its functions under this Act, the Corporation shall have power—

(1) to have a corporate seal which may be altered at pleasure and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced;

(2) to sue and be sued;

(3) to enter into and perform contracts, leases, cooperative agreements, or other transactions, on such terms as the Corporation may deem appropriate, and consent to modification thereof, without regard to sections 3648 and 3709 of the Revised Statutes, as amended (31 U.S.C. 529 and 41 U.S.C. 5), and section 322 of the Act of June 30, 1932, as amended (40 U.S.C. 278a);

(4) to appoint and fix the compensation of such personnel as may be necessary for the conduct of its business in accordance with the provisions of title 5, United States Code, governing appointment in the competitive service, and chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, and to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates for individuals not to exceed the per diem equivalent for GS–18;

(5) except as may be otherwise provided in this title, in the Government Corporation Control Act, or in any other laws specifically applicable to Government corporations, to determine the necessity for and the character and amount of its obligations and expenditures and the manner in which they shall be incurred, allowed, paid, and accounted for;

(6) to issue such rules and regulations as may be deemed necessary or appropriate to carry out the purposes of this Act; and

(7) to exercise all powers specifically granted by the provisions of this Act and such incidental powers as are necessary to carry out the purposes of this Act.

(b) All suits of a civil nature at common law or in equity to which the Corporation shall be a party shall be deemed to arise under the laws of the United States, except that no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Corporation or its property.

SERVICES AND FACILITIES OF OTHER AGENCIES

SEC. 105. The Corporation may, with the consent of the agency concerned, accept and utilize on a reimbursable basis, the officers, employees, services, facilities, and information of any agency of the Federal Government, except that any such agency having custody of any data relating to any of the matters within the jurisdiction of the Corporation shall, to the extent permitted by law, upon request of the Corporation, make such data available to the Corporation without reimbursement.

FINALITY OF CERTAIN FINANCIAL TRANSACTIONS

SEC. 106. Notwithstanding the provisions of any other law, any financial transaction authorized under this Act shall be final and conclusive upon all officers of the United States.

TAXATION

SEC. 107. The Corporation, including its reserves, surplus, and income shall be exempt from all taxation now or hereafter imposed by the United States, or by any State, or any subdivision thereof, except any real property acquired by the Corporation shall be subject to taxation by any State or political subdivision thereof, to the same extent, according to its value as other real property is taxed.

GOVERNMENT CORPORATION CONTROL ACT

SEC. 108. Section 101 of the Government Corporation Control Act is amended by inserting after "Federal Housing Administration," the following: "Municipal Debt Guarantee Corporation,".

ANNUAL REPORT

SEC. 109. The Corporation shall submit to the President, for transmission to the Congress, a comprehensive annual report of its activities under this Act.

APPROPRIATIONS

SEC. 110. Except as otherwise specifically provided for in this Act, there are authorized to be appropriated such sums as may be necessary to enable the Corporation to carry out its functions under this Act.

DEBT SERVICE GUARANTEES

SEC. 201(a). Upon the application of any municipality, the Corporation is authorized to guarantee, and enter into commitments to guarantee, the payment of principal and interest on the municipal securities issued by said municipality. Any such guarantee contract shall obligate the Corporation to pay to the paying agent for the guaranteed securities during the period in which they are outstanding such amounts as may be needed, when added to the moneys available from taxes, revenues or other funds of the municipality to make payments of principal and interest when due.

(b) No security shall be guaranteed or otherwise assisted under this Act unless the interest income thereon is subject to Federal taxation. With respect to any municipal security for which the issuer has elected to receive the benefits of the assistance provided under this Act, the interest paid on such security and received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purpose of Chapter 1 of the Internal Revenue Code of 1954.

(c) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal and interest. Any such guarantee made by the Corporation shall be conclusive evidence of the eligibility of the securities for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed security.

(d) The Corporation shall not make a guarantee, or enter into a commitment to guarantee, the securities of a municipality unless:

(1) the Corporation finds that the debt service on such securities is within the financial capability of the borrowing municipality, after taking account of its current and prospective revenues, expenditures and indebtedness or the State government irrevocably agrees to provide such assistance as may be necessary to pay the debt service as it become due; and

(2) the municipality pledges to reimburse the Corporation for any losses it may sustain because of its guarantee of said securities out of its receipt of payments under the State and Local Fiscal Assistance Act of 1972.

(e) The Corporation is authorized to establish and collect such fees and charges for and in connection with guarantees made under this section, provided that they do not exceed one quarter of 1 per centum per annum of the securities covered by the guarantee which are outstanding at the beginning of each year.

Sec. 202. The Corporation is authorized to establish a revolving fund to provide for the timely payment of any liabilities incurred as a result of guarantees under Section 201 and for the payment of obligations issued to the Secretary of the Treasury under Section 203. Such revolving fund shall be comprised of (A) receipts from fees and charges; (B) recoveries under security, subrogation, and

other rights; (C) repayments, interest income, and any other receipts obtained in connection with guarantees made under Section 201; (D) proceeds of the obligations issued to the Secretary of the Treasury pursuant to section 203; and (E) such sums, which are hereby authorized to be appropriated, as may be required for such purposes. Money in the revolving fund not currently needed for the purpose of this section shall be kept on hand or on deposit, or invested in obligations of the United States or guaranteed thereby.

SEC. 203(a). The Corporation is authorized to issue to the Secretary of the Treasury from time to time notes or other obligations for purchase by the Secretary in amounts sufficient, together with moneys in the fund, to make payments of principal and interest on all securities guaranteed under section 201 in accordance with a debt service guarantee contract. Such obligations shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury.

(b) The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations of the Corporation issued under this subsection, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act; and the purposes for which securities may be issued under such Act are extended to include the purchase of any such notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

SEC. 204 (a). Section 103(a)(1)(H) of the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1222) is amended by striking "financial administration" and substituting therefor "financial administration, including reimbursement of losses sustained by a Federal guarantor of the local government's securities."

INTEREST REDUCTION PAYMENTS

SEC. 205. (a) In order to achieve a decrease in the interest cost burdens arising from the guaranteed securities, the Corporation is authorized to enter into contracts to make interest reduction payments to the borrowing municipality, provided that the interest income on said securities is not exempt from Federal taxation.

(b) The amount of any payment made under this section shall be equal to 33⅓ per centum of the annual interest charge payable each year by the municipality on the securities guaranteed under section 201. Any such payment shall be payable for each of the years in which any of the guaranteed securities are outstanding.

(c) No payment shall be made under this section unless (1) the municipality has entered into a debt service guaranty contract pursuant to section 201, and (2) the Corporation finds that the interest charges on the securities are reasonable, after taking into account the taxable status of the securities, the availability of a Government guarantee, and the general level of interest rates then prevailing.

(d) In addition, the Corporation is authorized to enter into agreements with the Federal Financing Bank (12 U.S.C. 2282) to make interest reduction payments on behalf of Federally aided public housing and urban renewal securities purchased by the Bank. Such payments shall be equal to 33⅓ per centum of the interest cost to the Bank for its borrowings of comparable maturities.

(e) The Corporation may make advance or progress payments on account of any contract entered into pursuant to this section, notwithstanding the provisions of section 3648 of the Revised Statutes.

(f) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Any sums so appropriated shall remain available until expended.

EMERGENCY GUARANTEES

SEC. 301. (a) Where a municipality faces a high probability of default on its outstanding security issues because of budget deficiencies, it may apply for Federal guarantees of its outstanding indebtedness. Under such dire circumstances, and as a means of avoiding a wave of defaults on municipal securities, the Corporation is authorized to enter into contracts to guarantee the payment of principal and interest on each of the outstanding security issues of the financially distressed municipality, as authorized by section 201 above. The Corporation is also authorized to make interest reduction payments for such guaranteed securities, as authorized by section 205 of this Act; *Provided, however,* no such municipal security shall be guaranteed and no interest reduction payments shall be made on behalf of such municipal securities unless the interest income thereon is subject to Federal taxation. Therefore, to obtain such benefits, the municipality must explicitly agree to offer to the holders of its outstanding indebtedness to exchange bonds and notes, the interest income of which is subject to Federal taxation, for its bonds and notes, the interest income of which is exempt from Federal taxation. Aside from their changed tax status, the substitute bonds and notes shall be identical to the securities they replace with respect to interest rate maturity and other terms and conditions.

(b) Holders of the outstanding securities of the municipalities offering to exchange Federally guaranteed securities for non-guaranteed securities under the conditions prescribed in section 301(a) may elect to accept such offers or may elect to hold the non-guaranteed tax-exempt securities.

(c) Municipalities that apply for, and obtain from the Corporation, an agreement to guarantee their outstanding indebtedness and to make therefor interest reduction payments, shall be required to advertise the above described offer to exchange guaranteed securities for their non-guaranteed debt in financial newspapers and other publications of national circulation or direct notice shall be given to the bond holders within 30 days following the effective date of the agreement with the Corporation. The offers to exchange must be available to the holders of the outstanding securities for a period of 60 days from the date of the published advertisement.

(d) The Federal Reserve Banks are authorized and directed to act as depositories, custodians and fiscal agents for the Corporation to facilitate the security exchanges authorized in section 301(a).

FEDERALLY AIDED FINANCING

SEC. 401. (a) The Congress recognizes that the Federally aided borrowing for public housing, authorized by the United States Housing Act of 1937, as amended, and for urban renewal, authorized by Title I of the Housing Act of 1949, as amended, competes inordinately with non-Federally aided borrowing by State and local public bodies for the limited supply of funds available in the tax exempt securities market. The resultant higher interest rates reduce the interest cost savings arising from the tax exemption accorded to the interest income on securities issued by State and local public bodies, causing a reduction of needed public facilities or an indefinite postponement of their financing.

(b) With the establishment of the Federal Financing Bank in 1973 (12 U.S.C. 2282) an alternate means of financing for Government supported securities is now available. To alleviate the congestion in the tax exempt market for municipal securities, the Secretary is authorized and directed to arrange for the sale of Federally supported notes or bonds hereafter issued by local agencies to finance Federally aided public housing and urban renewal projects directly to the Federal Financing Bank.

(c) Section 5(d) of the United States Housing Act of 1937, as amended, (42 U.S.C. 1401) is amended by adding: "However, effective January 1, 1976, all obligations issued by a public housing agency in connection with such projects shall be sold directly to the Federal Financing Bank (12 U.S.C. 2282) upon such terms and conditions as may be necessary to avoid an increase in borrowing costs to such agency as a result of the purchase by the Bank of its obligations."

(d) Section 102(c) of Title I of the Housing Act of 1949, as amended, (42 U.S.C. 1450) is amended by adding: "However, effective January 1, 1976, all obligations issued by a local public agency in connection with a Federally aided project shall be sold directly to the Federal Financing Bank (12 U.S.C. 2282) upon such terms and conditions as may be necessary to avoid an increase in borrowing costs to such agency as a result of the purchase by the Bank of its obligations."

(e)(1) Section 16 of the Federal Financing Bank Act of 1973 (12 U.S.C. 2282) is amended by striking the second sentence of subsection (a) and substituting in lieu thereof the following: "In this connection, the Municipal Debt Guarantee Corporation, established by the "Emergency Municipal Credit Assistance Act of 1975," is authorized to enter into agreements with the Bank to make interest reduction payments on behalf of Federally aided public housing and urban renewal securities purchased by the Bank."

(2) Section 16 of the Federal Financing Bank Act of 1973 is further amended by striking the first sentence of subsection (b) and substituting in lieu thereof the following:

"(b) Such payments shall be equal to 33⅓ per centum of the interest cost to the Bank for comparable maturities."

EXIMBANK, FEA, CONTRIBUTING TO ENERGY SHORTAGES

(Mr. HUGHES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HUGHES. Mr. Speaker, only a few short weeks ago, President Ford told the AFL–CIO construction trades meeting that we must "bring an end to the intolerable situation in which America exports more than $25 billion a year to pay for imported oil, while plenty of energy is potentially available at home." What Mr. Ford did not tell the AFL–CIO is that one of the reasons why we are not realizing our potential is that the Export-Import Bank as well as the Federal Energy Administration which is staffed by many former oil company employees, have been encouraging the export of billions of dollars worth of American technology and equipment to the North Sea and other areas of the world—

technology and equipment which is in short supply here at home and desperately needed to accelerate the production of our own oil and gas reserves.

What we are exporting is a portion of our already limited capacity to accelerate production of oil and gas reserves for the United States, and reduce our dependency upon expensive and unreliable foreign sources. There is no way to justify a policy of encouraging exports at a time when our own domestic production is lagging because of equipment shortages.

This is one of those absurd instances in which the Government is working at cross-purposes against its own policies. On the one hand is the Department of the Interior, which is about to embark upon the most ambitious offshore leasing program ever, leasing six Outer Continental Shelf areas a year from 1976 to 1978, amounting to many millions of acres of submerged Federal lands.

On the other hand is the U.S. Export-Import Bank, which has extended more than $579 million in loans, credits, and guarantees to various oil producers, including some subsidiaries of U.S. oil companies, to buy and export American-made equipment for development of the North Sea; $500 million more in such financing is being considered for the North Sea alone. The Federal Energy Administration has been participating in the Eximbank's decisions to make loans, credits, and guarantees for development of oil and gas resources in other parts of the world.

It may come as a shock and surprise to many to know that America is not, at the present time, in a position to develop those reserves of oil and gas in the Gulf of Mexico which we already know about, let alone the many millions of new OCS acres which will be leased in the coming months and years, and one of the primary reasons is that we do not have enough equipment. In light of those shortages, we must question the wisdom of a policy which encourages exportation of our equipment.

It is becoming increasingly clear that we cannot develop our own OCS resources. For example, a March 1975 report of the General Accounting Office has stated that shortages of rigs, platforms, and other drilling and related equipment is one of the major obstacles to the success of the Department of the Interior's accelerated leasing program. The House Interstate and Foreign Commerce Committee's report, to accompany H.R. 7014, indicated that drilling rigs ordered in 1974 cannot be delivered until the first quarter of 1977. The report also listed tight supply situations with respect to steel products and oil country tubular goods, which reduced a potential 171 million feet that could have been drilled in 1974 down to 160 million feet.

Based on information I have received, the demand for rigs is as strong as ever, and shows little sign of slackening. In south Louisiana, as of August, there was only one idle rig, which puts the rig utilization figure at 99.64 percent. In spite of that extraordinarily high utilization figure, recent Senate testimony by Dr. Walter Measday, an economist with the Senate Antitrust Subcommittee, indicates that Federal oil and gas leases in that area are producing at less than one-half the maximum efficient rate, or 710,000 barrels per day below capacity.

I intervened in a Federal Power Commission investigation of nonproducing oil and gas reservoirs in the Gulf of Mexico. Time after time I asked witnesses for oil and gas producers why gas was not being produced from reservoirs which were known to contain oil and gas in commercially producible quantities, and I got the answer "equipment shortages" more often than any other answer.

But when I went to the North Sea this June, as a member of the Select Committee on the Outer Continental Shelf, I did not see any equipment shortages. In fact, I was astounded by the massive presence of American equipment and technology, some of which belong to the same U.S. oil companies which had been before the Federal Power Commission citing delays of as much as 4 years in obtaining certain types of equipment.

Obviously, one of the reasons that we cannot develop our own resources is that our major oil companies have determined that, for the present, the action is in the North Sea, even though little, if any, of the oil they produce there will help the United States meet its own energy needs. There is a simple reason for that—the oil companies make money whether they are producing American oil for Americans, or North Sea oil for Europeans. No matter where the oil is coming out of the ground, the money is going into the same pockets. This approach to oil and gas development has the extra added bonus of contributing to our shortages here at home, and thereby helping to keep the pressure up for deregulation.

Under the Federal statute which governs the procedures for the Eximbank the bank is required to consider whether any loans it makes may have an adverse impact on the domestic economy. Eximbank's procedures for determining such adverse impacts can be described, at best, as haphazard and slipshod. Since 1974, Eximbank has been submitting energy-related lending proposals to the Federal Energy Administration's office of International Affairs for clearance, but the procedures for determining adverse impact are very unclear. It appears that many clearances have been given on the basis of secondhand or thirdhand information and an occasional news clipping. Little has been done in the way of independent analysis. In fact, it came as a surprise to the FEA to learn that the Federal Power Commission has had an ongoing investigation of nonproducing shut-ins in the Gulf of Mexico.

It is very difficult to dismiss this entire situation as just another bureaucratic snafu. That is because three out of the four upper-echelon officials and seven out of eight in position to exercise influence in the decisionmaking process at FEA at one time or another had ties to the oil industry, including some oil companies such as Exxon and Mobil which are heavily into development of the North Sea where the equipment is destined for delivery. It is very difficult to escape the suspicion that these individuals have brought into the Federal Energy Administration not just a pro-oil industry bias, but an outright conflict of interests as well.

The FEA and Eximbank are operating on the assumption that none of the products which they help to export are in short supply. That assumption conflicts with every scrap of information which I have been able to obtain. Eximbank and FEA are apparently relying upon industry sources and the Department of Commerce for their information. Yet every time I have attempted to pin down a source, the claims of surplus seem to evaporate into thin air.

It seems that the major oil companies are shouting "shortage" before the Federal Power Commission, but whispering "surplus into the ears of officials at Eximbank and the Federal Energy Administration.

This is not a question of providing jobs for U.S. workers through increased exports. The demand for rigs and drilling and production equipment is very great now, and with the addition of many millions of acres of OCS lands to the portfolios of the major oil companies, we will not need foreign orders to keep our shipyards busy. In fact, the United Kingdom is now engaged in an intensive "buy British" campaign to encourage oil companies to purchase equipment from British manufacturers, who now have only 40 percent of the North Sea market. I would think that an end to U.S. support for export of energy goods would not only be well received here in the United States, but in the United Kingdom as well.

The FEA estimates that domestic manufacturers are operating at capacity at the present time, without the additional orders that will come when frontier OCS lands are leased. A total of 57 exploratory rigs will be built by manufacturers through 1976 of which the General Accounting Office estimates from 50 to 60 percent will be shipped overseas. At that rate, new exploratory rigs for use in U.S. water will be between 20 and 30—20 or 30 rigs to explore an OCS area which will be many times larger than all of the previous lease sales combined. Then the oil and gas producers can point to even greater equipment shortages.

Mr. Speaker, this situation is intolerable. I have forwarded all the information I have on this subject to the chairman of the House and Senate subcommittees which have oversight jurisdiction of the Federal Energy Administration and the Eximbank. I have also contacted the General Accounting Office with certain further information I have on this subject.

Knowing of the deep concern of my colleagues for the Nation's serious energy situation, I am appending to this statement some tables and charts which provide further documentation for the questions and charges I have raised in my statement:

TABLE I.—EXIMBANK CREDITS FOR NORTH SEA DEVELOPMENT AND EQUIPMENT, AS OF JUNE 30, 1975

Country (credit No.) and obligor	Description	EIB exposure (thousands)
Denmark:		
3719—Corino Shipping	2 drilling vessels	$17,583
4124—Maersk Oil Drilling	1 offshore rig	6,300
Netherlands:		
3096—Placid International Oil Ltd	Production of gas reserves	4,698
4053—Nederlandse Zeeboormettack	Semisubmersible drilling rig	3,600
4237—International Drilling	Land based drilling rig and equipment.	1,575
4487—Placid International Oil Ltd	Offshore gas field	3,600
4933—Curacao Offshore Equipment	Crane and pipe handling equipment	3,051
Norway:		
3064—Heken & NR Bugge	Supply vessels—oil drilling	1,179
3190—Phillip Petroleum Norway (Nowsh Hydro Produksjon).	Ekofisk phase I development	56,250
3207—Zapata North Sea, Inc	Offshore drilling rig and equipment	2,187
5160—K/S Dyoi Drilling	Offshore drilling equipment	2,700
5210—Fred Olsen Group	2 tug supply vessels	2,566
5471—A/S Akers Mekverksted	Cranes for shipyard	800
5706—Skibs A/S Aramis	3 tug boats	4,200
United Kingdom:		
3881—Wimpey Highlands Fab	Offshore drilling yard	4,442
3930—Shell International Petroleum	Goods for petroleum operations	1,500
3909—Laing Offshore	Heavy cranes	1,792
4097—Salvensen Offshore Drilling	Cargo vessel for drilling	5,670
4388—Shell International Petroleum	Miscellaneous capital goods	2,700
4654—Viking Jersey Equipment Ltd	Equipment for pipelaying barge	4,974
4800—Shell International Petroleum	Miscellaneous capital goods	7,500
3519—Kommandiltselskapet Waage Drilling.	2 semisubmersible drilling rigs	$21,398
3792—Ugland Shipping Co. A/S	Semisubmersible drilling rig	10,946
3886—Wilhemsan Offshore Services	4 offshore supply vessels	1,998
4241—K/S Viking Offshore A/S	Semisubmersible drilling rig	8,000
4391—Norskald	do	4,012
4594—Nordic Offshore Drilling Co	Blowout prevention equipment	810
4614—Fred Olsen Group	Drilling equipment	2,363
4634—Gotaas Larsen Drilling	do	3,240
4642—Skaugen-Offshore Co	do	4,275
4688—Ekofisk Co-Venturers	Oil and gas field development	67,950
4689—Ekofisk Co-Venturers	Construct oil pipeline	126,900
4735—Wilk. Wilhelmsen Offshore	2 supply vessels	1,520
4840—5 Norwegian supply companies	do	1,727
5006—K/S A.S. Viking Offshore II	Semisubmersible drilling rig	2,250
4906—Geopresco Overseas Ltd	Oil drilling equipment	693
5062—Kingsworth Maine Drilling Ltd	do	6,300
5063—British Petroleum Co	Development of Forties production field.	38,250
5074—Friggs Gas Field Co-Venturers	Gas field development	13,500
5076—Friggs Pipeline Co-Venturers	Gas field pipeline	22,500
5112—4 Millbank Investments Ltd	Oil drilling rig	2,704
5449—Piper Field Co-Venturers	Platform development and pipeline	35,235
5510—S. & A. Geophysical Ltd	Semisubmersible survey equipment	576
4655—Theriot Offshore International	6 offshore supply vessels	7,000
Total Eximbank exposure		579,264

TABLE II.—EXCERPTS FROM STATEMENTS OF PRODUCER RESPONDENTS BEFORE THE FEDERAL POWER COMMISSION

Name	Company	Case and No.	Page No.	Date	Statement
Honeycott, Baxter D	ARCO	FPC–RI75–112	2856	July 22, 1975	They (production platforms) are getting more and more difficul to find.
			2857		Delay of rigs—it is the type of rigs (150 ft). Rigs are very tight there has been a three year wait for the above rig.
			2858		To get a drill ship it takes a matter of months.
			2860		There is no indication that the delays will decrease.
Oliver, Donald	Cities Service	FPC–RI75–112	3009	July 23, 1975	The mobile drilling rig or jackup rig capable of water depth to 300 ft anticipate probably 1978–79.
			3009		The semisubmersible drilling rig you may find by 1978–79.
			3010		The production platforms lags are about 1979 deliverability.
			3011		The tubing shortage will ease in vicinity of 1978.
Bent, Norman J	Burmah Oil Gas Co	FPC–RI75–112	3324	July 28, 1975	Concerning the C–6 well (lease 1198), we have been having a great deal of difficulty trying to get a rig into the field.
			3325		Has taken over a year of communication to get a rig.
			3326		We do not know when we can get a rig.
			3385		To obtain an 18 pile, 200 ft rig it would take over 2 years.
Clark, Billy P	Mobil	FPC–RI75–112	3928	July 31, 1975	For a shallow water rig, we are having trouble in getting it. Placed the order in 1975 and have no idea when it will be available.
			3992		If ordered rig today, under normal delivery we can get it within a year, maybe a little sooner.
Jones, Donald R	Trans Ocean Oil Inc	FPC–RI75–112	4507	Aug. 22, 1975	It would depend on whether you were talking about a platform rig or a mobile drilling rig. For a mobile drilling rig it has taken over 2 yr, 2½ yrs.
			4508		The jack up rigs for shallow water use is in the vicinity of 6 mo to a year to obtain.
			4508		In ordering a production platform it takes 2 years.
			4508–09		The drilling rig situation has improved, but the platform situation has gotten wrose.
Pacher, H. G	Marathon Oil	FPC–RI75–112	4626	Aug. 25, 1975	The availability of a 4 pile, 6 to 8 slot platform is now mid 1977, but more likely it would be the spring of 1978.
			4627		The availability of a 8 pile, 18 to 24 slot platform, is mid 78 or early 1979.
			4627		There has been no dramatic improvement in this area.
Miesch, Ed P	ODECO	FPC–RI75–112	4, 911	Aug. 28, 1975	Question: Is the unavilability of a certain rig the thing that interferes with your doing that type of workover? Answer: Yes.
Jensen, Jr. Walter P	Superior Oil Co	FPC–RI75–112	4, 998	Aug. 29, 1975	This is in reference to Y South Sand: I am not prepared to give you a specific date of when we might obtain a rig. They are very scarce—I know there is a waiting list.
Manson, Eugene R	C & K Petroleum	FPC–RI75–112	3, 591	July 29, 1075	We are looking for a rig of a depth for 13,500 zone the earliest possible date is 7 or 8 mo.
Bell, Edwin O	Mobil	FPC–RI75–112	3, 773	July 30, 1975	There is no question as to the shortage, all the trade journals have carried articles about rig shortages and tubular shortages.
			3, 783		Concerning drilling equipment, it is next to impossible now to get a rig that will drill in shallow depths (30–125 ft).
			3, 783–84		Concerning well tubulars—Sending our order requistions for steel a full half-year ahead—mills are running a quarter behind—it is a 6 month delay.
			3, 785		Concerning the platform delivery time is now 1979.
Bechter, Paul W	Superior Oil Co	FPC–RI75–112	5, 239	Sept. 4, 1975	Referring to a defect in the tubing we have now found that we will be not in production till 1976 because there is a lag in time for shipment.
Faircloth, Allen R	Dixilyn Corp	FPC–RI75–112	5417	Sept. 8, 1975	For a mobile jackup rig (depth up to 370) there is a 3 to 4 mo wait, this is an improvement from last year.
			5417		In ordering a platform there is a 2-year wait. This has not eased up as much as the rig problem has.
			5417–18		The semisubmersible drilling rig (beyond the 250 ft depth) now takes about 4 mo.
			5418		The ship type drilling rigs takes from 3 to 4 mo to obtain, it functions in water depth beyond 250 ft.
Dupuy, Harvey J	The Cal. Co. (Chevron)	FPC–RI75–112	5701–02	Sept. 12, 1975	Question: If ordered a drilling rig today, when expected? Answer: I am sure the time lag would be on the order of 6 mo to a year. (referring-mobile jackup unit)
			5702		The time of ordering rigs could always be longer than the 6 mo to a year wait.
Dolan, Pat M	Kerr-McGee	FPC–RI75–112	5976	Sept. 18, 1957	Are you saying Kerr-McGee is unable to determine the delivery date for the availability of platform rigs and equipment after Jan. 1, 1976.
			5976		In making reference to 1975, he stated, and the use of these rigs is a priority matter * * * They are tight right now, they are very tight.

Name	Company	Case and No.	Page No.	Date	Statement
			5977		To order a platform, it will take a year to get (order here is mean a contract to rent 1).
			5977		To order a specifically built 1 we are able to obtain it in 1979.
			5978		In placing order for nonspecific built 1 is 4 mo.
Hunt, John W.	Hunt Oil Co.	FPC–RI75–112	5869	Sept. 17, 1975	Question: What type of delays are you experiencing in getting rigs? Answer: It is a 9 mo wait for a full work over rig.
Moore, Donald W.	Amoco	FPC–RI75–112	6188	Sept. 23, 1975	One reason for the nonproducing well is that they are shut in, waiting for a workover program on the platform.
			6208		In reference to Eugene Island Block, 208 field well A–6; the development of this block will take place in 1976, the reason for this delay is the shortage of the "tender type drilling rig" which will be obtainable in either March of 1976 or in March 1978 (the later date may be found on page 6287).
			6288		There is only 45 minimum self-contained platform rigs and at the present moment you can not contact for them.
Harper, George M.	Placid	FPC–RI75–112	6344	Sept. 24, 1975	Question: How did you arrive at the estimated dates of production? Answer: The 1970's were determined by the rig availability.
			6346		The platform availability is now 2 years and in some case so too are the rigs.
			6391	Sept. 25, 1975	The availability of workover rigs is 1977, that is the earliest that you could put a well in. When you get to 1977, you once again have the problem of where will the workover rigs come from in years 1977 to 1980. Our company will not use the mobile jackup rig, it will be double to the workover rig, so we will wait to 1980.

TABLE III.—*Industry backgrounds of Federal Energy Administration officials involved in Eximbank loan clearances*

OFFICE OF INTERNATIONAL AFFAIRS

Melvin A. Conant, Assistant Administrator for International Affairs (Exxon, 12 years, Director for Government Relations, Separated 1974).

Clement B. Malin, Deputy Assistant Administrator for International Affairs (Mobil, 10 years plus, Latin America and Europe regional manager, Separated 1974).

James A. West, Associate Assistant Administrator for International Affairs (Arabian-American Oil Company, Aramco, 5 years, Separated 1965).

Cecil B. Thompson, Associate Assistant Administrator for International Affairs (No industry background).

STAFF

James P. Morris (Career federal employee, spent 1, year, 1972, with Mobil Oil under Presidential Interchange program).

Bernard Kritzer (No industry background).

Denice Dwyer (No industry background).

Lawrence Heller (No industry background).

FEDERAL ENERGY ADMINISTRATION OFFICE OF OIL AND GAS

(Section consulted by Office of International Affairs to survey equipment surplus/shortage situations).

James R. Gill, Associate Assistant Administrator Office of Oil and Gas (former president, Gill Oil Company; Sunray, Eason Oil Companies).

Robert Kahl (former Vice-President, Kewanee Oil Company).

Ira Mayfield (former employee, Atlantic-Richfield Oil Company).

TABLE IV.—DRILLING RIGS IN DOMESTIC USE, 1975

Region	Production platforms	Mobil rigs (drill ships Jack-ups, semisubmersibles)
Gulf of Mexico (offshore Louisiana) [1]	48	40
Gulf of Mexico (offshore Texas)	4	13
California	4	5
Total (all regions)	56	58

[1] 1974 crude production on leases 49.3 percent below maximum efficient rate (MER); 1975 crude production from January to June 30, 1975 was 50.7 percent below MER—Sept. 23, 1975 testimony of Dr. Walter S. Measday, Chief Economist of the Senate Antitrust and Monopoly Subcommittee before the same subcommittee.

TABLE V.—ACCELERATED LEASING SCHEDULE

	Date
Gulf of Alaska	December 1975.
Southern California	Do.
Gulf of Mexico	February 1976.
Atlantic Ocean	May 1976 (Mid-Atlantic).
Atlantic Ocean (Georges Bank)	August 1976.
Atlantic Ocean (South)	November 1976.

	Oil (billions of barrels)	Natural gas (trillions of cubic feet)
Potential undiscovered reserves:		
All Alaska	3–31	8–80
All Pacific	2–5	2–6
All Gulf	3–8	18–91
All Atlantic	2–4	5–14

TABLE VI.—DRILLING RIG PRODUCTION, 1975–80 [1]

Year	Production platforms	Mobile rigs
1975	42	27
1976	52	30
1977	58	24
1978	56	27
1979	56	27
1980	56	27
Total	320	162

[1] Federal Energy Administration Office of Oil and Gas reports U.S. rig manufacturers operating at capacity. They are J. Ray McDermott; Brown & Root; Alabama Dry Dock; Kaiser; Avondale; Bethlehem; Marathon; Livingston,

Note: 1975–76 subtotal: 20 to 30 rigs for frontier waters in the United States—50 to 60 percent of the rigs being built domestically are believed destined for foreign areas—General Accounting Office Report: "Outlook For Federal Goals To Accelerate Leasing Of Oil And Gas Resources On The Outer Continental Shelf," Mar. 19, 1975.

TABLE VII.—*Oil and gas production equipment shortages*

"Outlook for Federal Goals to Accelerate Leasing of Oil and Gas Resources on the Outer Continental Shelf," Report to the Congress by the Comptroller General of the United States (RED–75–343), March 19, 1975.

"According to the PI report, the domestic demand for fixed and mobile offshore drilling rigs is predicted to exceed the most optimistic current forecasts of domestic availability under an accelerated exploration and development program. Even with optimistic assumptions on mobile rig production and world fleet movement to U.S. waters, requirements are expected to exceed projected availability." p. 18.

(The report also cited severe shortages of drillpipe, casing, tubing, rig equipment and steel supplies as imposing severe constraints on increased U.S. oil and gas production from OCS areas. In other words, equipment shortages are one of the most serious obstacles to the Department of Interior's accelerated leasing program which is intended to lessen our dependence upon foreign oil).

House Report No. 94–340, to accompany H.R. 7014, the Energy Conservation and Oil Policy Act of 1975 (94th Congress, 1st Session), p. 46.

This report stated that drilling rigs ordered in 1974 cannot be delivered until the first quarter of 1977. Steel products, such as steel plates, forgings and castings, are in tight supply. Oil country tubular goods (OCTG) are in tight supply, reducing a potential 171 million feet that could have been drilled in 1974 to 160 million cubic feet.

"Rig Demand Keeps Owners Scrambling," by Chad L. Wiley. *Oil & Gas* Journal, August 1975.

"Rig availability still may be the principal constraint on the expanding U.S. drilling program. Speculation to the contrary notwithstanding, there has been no significant 'softening' of demand for drilling equipment.

"Nationwide, rig utilization stood at 92.55 percent this mid-August, off a gnat's whisker from 93.40 percent a year earlier . . . In South Louisiana and the Southeastern States, only one rig was tallied as idle this August, producing a utilization figure of 99.64 percent." (Note: South Louisiana is the area which the Senate Antitrust Subcommittee said was operating at less than half the MER, or 710,000 barrels per days below maximum capacity).

"Offshore Investigation: Producible Shut-In Lease," January, 1974 Staff Report, Office of Economics, Bureau of Natural Gas, Federal Power Commission.

This report surveyed 96 leases which were classified as producible shut-ins on extended term status at the time the report was written. Of those 96, 21 were waiting on platform, production or pipeline facilities, and another four were waiting on drilling rigs. In other words, more than 25 percent of those leases on extended term status were not producing because of equipment shortages.

(This report is cited to show that shortages of rigs and other equipment were known at the time that Eximbank credits, etc., were made).

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. BAFALIS, for today, on account of personal reasons.

Mr. CHAPPELL (at the request of Mr.

BENNETT), for the balance of Thursday from 5 p.m., on account of illness in the family.

Mr. TAYLOR of North Carolina (at the request of Mr. O'NEILL), for today, on account of illness.

Mr. WAXMAN (at the request of Mr. O'NEILL), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SARASIN) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 30 minutes, today.
Mr. HASTINGS, for 20 minutes, today.
Mr. BELL, for 15 minutes, today.
Mr. FINDLEY, for 5 minutes, today.
Mr. TALCOTT, for 10 minutes, today.
Mr. WYLIE, for 30 minutes, today.
Mrs. SMITH of Nebraska, for 5 minutes, today.
Mr. WHALEN, for 5 minutes, today.

(The following Members (at the request of Mr. LAFALCE) to revise and extend their remarks and include extraneous matter:)

Mr. GONZALEZ, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. PATMAN, for 30 minutes, today.
Mr. LAFALCE, for 15 minutes, today.
Mr. MOSS, for 5 minutes, today.
Mr. PREYER, for 10 minutes, today.
Mr. DENT, for 5 minutes, today.
Mr. VANIK, for 5 minutes, today.
Mr. BARRETT, for 5 minutes, today.
Mr. RODINO, for 15 minutes, today.
Mr. VIGORITO, for 10 minutes, today.
Mr. ZEFERETTI, for 10 minutes, today.
Mr. BINGHAM, for 5 minutes, today.
Mr. DANIELSON, for 5 minutes, today.
Mr. OBERSTAR, for 5 minutes, today.
Mr. MURPHY of New York, for 10 minutes, today.
Mr. NEDZI, for 5 minutes, today.
Mr. VAN DEERLIN, for 5 minutes, today.
Mr. KOCH, for 5 minutes, today.
Mr. FASCELL, for 10 minutes, today.
Mrs. COLLINS of Illinois, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. O'NEILL, to revise and extend his remarks on H.R. 200 just prior to the rising of the Committee of the Whole.

Mr. BARRETT, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,501.50.

Mr. HUGHES, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,073.

(The following Members (at the request of Mr. SARASIN), and to include extraneous matter:)

Mr. FINDLEY.
Mr. ESCH.
Mr. CRANE.
Mr. FISH.
Mr. GILMAN in two instances.
Mr. STEIGER of Arizona.
Mr. MICHEL in two instances.
Mr. ABDNOR.
Mr. SARASIN.
Mr. ERLENBORN.
Mr. SHUSTER in two instances.
Mr. HORTON in four instances.
Mr. DU PONT.
Mr. STEIGER of Wisconsin.
Mr. DON H. CLAUSEN in two instances.
Mr. BOB WILSON in two instances.
Mr. HEINZ.
Mr. QUIE.
Mr. GRADISON.
Mr. ASHBROOK in two instances.
Mr. ANDERSON of Illinois in two instances.
Mr. CARTER.
Mr. HANSEN in eight instances.
Mr. TALCOTT.

(The following Members (at the request of Mr. LAFALCE) and to include extraneous matter):

Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. EDGAR.
Mr. MURPHY of New York.
Mr. HOWE.
Mr. ST GERMAIN.
Mr. NIX.
Mr. VANIK in 12 instances.
Mr. WAXMAN in two instances.
Mr. DAN DANIEL.
Mr. EDWARDS of California in three instances.
Mr. OTTINGER.
Mr. PREYER.
Mr. VIGORITO.
Mr. MCHUGH.
Mr. FISHER in two instances.
Mr. RICHMOND.
Mr. MAZZOLI.
Mr. MILFORD in three instances.
Mr. EILBERG.
Mr. HAWKINS in two instances.
Mr. REUSS.
Mr. FAUNTROY.
Mr. SOLARZ.
Mr. MINETA.
Mr. BROWN of California.
Mr. ROUSH.
Mr. MILLS.
Mr. BRADEMAS.
Mr. MOFFETT in two instances.
Mr. ROSENTHAL.
Mr. WON PAT in three instances.
Mr. HELSTOSKI.
Mr. MOTTL in two instances.
Mr. ANNUNZIO in four instances.
Mr. ROYBAL in two instances.
Mr. CONYERS.
Mr. FASCELL.
Mr. SIMON.
Mr. THOMPSON.
Mr. REES.
Mr. OBERSTAR in two instances.
Mr. MOSS.
Mr. RANGEL.
Mr. PERKINS.
Mr. DRINAN in two instances.
Mr. BLANCHARD in two instances.
Mr. HARRINGTON in four instances.
Mrs. SPELLMAN.
Mr. SCHEUER in four instances.
Mr. JOHN L. BURTON in two instances.
Mr. AMBRO in three instances.
Mr. JONES of Tennessee.
Mr. MAGUIRE.
Mr. MINISH.
Mr. DIGGS.
Mr. SARBANES.
Mr. LAFALCE.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2308. An act to provide for the modification of the boundaries of the Bristol Cliffs Wilderness Area; to the Committee on Interior and Insular Affairs.

ENROLLED BILLS SIGNED

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 5708. An act to provide for the striking of medals in commemoration of the bicentennials of the U.S. Army, the U.S. Navy, and the U.S. Marine Corps;

H.R. 6151. An act to authorize appropriations for services necessary to nonperforming arts functions of the John F. Kennedy Center; and

H.R. 8121. An act making appropriations for the Department of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following title:

H.R. 5708. An act to provide for the striking of medals in commemoration of the bicentennials of the U.S. Army, the U.S. Navy, and the U.S. Marine Corps;

H.R. 6151. An act to authorize appropriations for services necessary to nonperforming arts functions of the John F. Kennedy Center;

H.R. 8121. An act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes; and

H.R. 8561. An act making appropriations for Agriculture and Related Agencies programs for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

ADJOURNMENT

Mr. LAFALCE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of House Concurrent Resolution 424, 94th Congress, the Chair declares the House adjourned until 12 o'clock noon on Monday, October 20, 1975.

Thereupon (at 7 o'clock and 56 minutes p.m.), pursuant to House Concurrent Resolution 424, the House adjourned un-

til Monday, October 20, 1975, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1863. A letter from the Secretary of the Treasury, transmitting the fourth annual report of the Emergency Loan Guarantee Board, covering the year ended July 31, 1975, pursuant to section 12 of Public Law 92–70; to the Committee on Banking, Currency and Housing.

1864. A letter from the Director, Defense Security Assistance Agency; transmitting notice of the intention of the Department of the Air Force to offer to sell certain military equipment to Korea, pursuant to section 36 (b) of the Foreign Military Sales Act, as amended; to the Committee on International Relations.

1865. A letter from the president, Communications Satellite Corporation, transmitting the 12th annual report of the Corporation, pursuant to section 404(b) of the Communications Satellite Act of 1962; to the Committee on Interstate and Foreign Commerce.

1866. A letter from the Assistant Secretary of State for Congressional Relations, transmitting the texts of International Labor Organization Convention No. 139 and Recommendation No. 147, concerning the prevention and control of occupational hazards caused by carcinogenic substances and agents, pursuant to Article 19 of the ILO Constitution (H. Doc. No. 94–280); jointly, to the Committees on International Relations, and Education and Labor and ordered to be printed.

1867. A letter from the Assistant Secretary of State for Congressional Relations, transmitting the texts of International Labor Organization Convention No. 139 and Recommendation No. 148, concerning paid educational leave, pursuant to Article 19 of the ILO Constitution (H. Doc. No. 94–281); jointly, to the Committees on International Relations, and Education and Labor and ordered to be printed.

RECEIVED FROM THE COMPTROLLER GENERAL

1868. A letter from the Comptroller General of the United States, transmitting a report on opportunities for improving civilian payroll operations of the U.S. Army Military District of Washington; jointly, to the Committees on Government Operations, and Armed Services.

1869. A letter from the Comptroller General of the United States, transmitting the second in a series of reports on the audit of the Small Business Administration, discussing improvements needed in the small business investment company program under section 301(d) of the Small Business Investment Act, pursuant to section 13 of Public Law 93–386; jointly, to the Committees on Government Operations, and Small Business.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PATTISON of New York. Committee on the Judiciary. S. 611. An act for the relief of Southeastern University of the District of Columbia; with amendment (Rept. No. 94–551). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAYS of Ohio. Committee on House Administration. House Resolution 780. Resolution disapproving a regulation proposed by the Federal Election Commission (Rept. No. 94–552). Referred to the House Calendar.

Mr. HAYS of Ohio. Committee on House Administration. House Resolution 744. Resolution to provide funds for the expenses of investigations, hearings, and studies to be conducted by the Select Committee on Missing Persons in Southeast Asia; with amendment (Rept. No. 94–553). Ordered to be printed.

Mr. HAYS of Ohio. Committee on House Administration. House Resolution 772. Resolution providing additional funds for the expenses of the Committee on House Administration to provide for maintenance and improvement of ongoing computer services for the Committee on Appropriations of the House of Representatives. (Rept. No. 94–554). Referred to the House Calendar.

Mr. MOORHEAD of California. Committee on the Judiciary. S. 240. An act to amend the act entitled "An Act granting a charter to the General Federation of Women's Clubs"; with amendment (Rept. No. 94–555). Referred to the House Calendar.

Mr. HAYS of Ohio. Committee on House Administration. House Resolution 710. Resolution disapproving certain provisions of the regulations issued and proposed by the Administrator of General Services under the Presidential Recordings and Materials Preservation Act (Rept. No. 94–560). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PATTISON of New York. Committee on the Judiciary. H.R. 4654. A bill for the relief of Day's Sportswear, Inc. (Rept. No. 94–556). Referred to the Committee of the Whole House.

Mr. DANIELSON. Committee on the Judiciary. House Resolution 222. Resolution referring the bill (H.R. 3374) for the relief of John J. Egan to the Chief Commissioner of the Court of Claims pursuant to sections 1492 and 2509 of title 28, United States Code, (Rept. No. 94–557). Referred to the Committee of the Whole House.

Mr. MAZZOLI. Committee on the Judiciary. H.R. 2943. A bill for the relief of the estate of James J. Caldwell. (Rept. No. 94–558). Referred to the Committee of the Whole House.

Mr. FLOWERS. Committee on the Judiciary. H.R. 6852. A bill for the relief of John T. Knight; with amendment (Rept. No. 94–559). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MOTTL:

H.R. 10122. A bill to restore and promote competition in the petroleum industry and for other purposes; to the Committee on the Judiciary.

By Mr. ARMSTRONG (for himself, Mr. EVANS of Colorado, Mr. ANDREWS of North Dakota, Mr. JOHNSON of Colorado, Mr. KETCHUM, Mr. MOORE, Mr. OBERSTAR, and Mr. THONE):

H.R. 10123. A bill to limit the liability of a broker who sells any agricultural commodity on behalf of his principal when that commodity serves as security for any loan made, insured, or guaranteed under a program administered by the Farmers Home Administration; to the Committee on Agriculture.

By Mr. BELL:

H.R. 10124. A bill to allow a credit against Federal income taxes or a payment from the U.S. Treasury for State and local real property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65; to the Committee on Ways and Means.

H.R. 10125. A bill to amend title II of the Social Security Act to increase to $4,200 the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. BIAGGI:

H.R. 10126. A bill to establish a Department of Aging, and for other purposes; to the Committee on Government Operations.

By Mr. BIESTER:

H.R. 10127. A bill to amend the Internal Revenue Code of 1954 to provide, for purposes of the estate tax, an alternative method of valuing certain property which is farmland, woodland or open spaces or which has historic value in order to encourage the preservation of such property, and to provide a deduction from the gross estate for a certain portion of the farming interests held by the decedent; to the Committee on Ways and Means.

By Mr. DOMINICK V. DANIELS:

H.R. 10128. A bill to amend the Regional Rail Reorganization Act of 1973 to permit the analysis of light density railroad lines on the basis of their costs and benefits, to aid in the transition to the final system plan by assuring the continuation of local freight services and rail passenger and commuter services, to provide assistance and additional time for the States to prepare their State rail plans, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DOMINICK V. DANIELS (for himself, Mr. EILBERG, Mr. SOLARZ, Mr. BEARD of Rhode Island, Mr. ROE, Mr. BEVILL, Mr. RODINO, and Ms. HECKLER of Massachusetts):

H.R. 10129. A bill to provide for a reduction in charges imposed on oil imports in proportion to OPEC price increases; to the Committee on Ways and Means.

By Mr. DENT:

10130. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to provide for an automatic increase in such wage rate based on increases in the price index, to require an overtime rate equal to 2½ times the regular wage rate, and to reduce and then repeal the credit against the minimum wage which is based on tips received by tipped employees; to the Committee on Education and Labor.

By Mr. FINDLEY:

H.R. 10131. A bill to establish a mandatory commodity market for crude oil; to the Committee on Interstate and Foreign Commerce.

By Mr. FITHIAN (for himself, Mr. MATHIS, Mr. BEVILL, Mr. GUDE, Mr. CORMAN, Mr. ABDNOR, Mr. HANNAFORD, Mr. MITCHELL of New York, Mr. OBERSTAR, Mr. BALDUS, and Mr. D'AMOURS):

H.R. 10132. A bill to carry out a coordinated agricultural energy research program through the State agricultural experiment stations, and for other purposes; jointly to the Committees on Science and Technology, and Agriculture.

By Mr. FOLEY:

H.R. 10133. A bill to upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; to provide for two additional Assistant Secretaries of Agriculture; to increase the compensation of certain officials of the Department of Agriculture; to

provide for an additional member of the Board of Directors, Commodity Credit Corporation; and for other purposes; jointly to the Committees on Post Office and Civil Service, and Agriculture.

By Mr. FORD of Michigan (for himself, Mr. ASHBROOK, Mr. BEDELL, Mr. BEVILL, Mr. BOLAND, Mr. BROWN of Michigan, Mr. BURLISON of Missouri, Mr. CONYERS, Mr. DERWINSKI, Mr. DEVINE, Mr. DIGGS, Mr. DU PONT, Mr. EILBERG, Mr. EMERY, Mr. ESCH, Mr. EVINS of Tennessee, Mr. GIBBONS, and Mr. GONZALEZ):

H.R. 10134. A bill to amend section 552a of title 5, United States Code, to authorize the disclosure to Members of Congress or their designates of information regarding individuals for casework purposes; to the Committee on Government Operations.

By Mr. FORD of Michigan (for himself, Mr. HARRIS, Mr. HAWKINS, Mr. HECHLER of West Virginia, Mr. HELSTOSKI, Mr. HOWE, Mr. HUGHES, Mr. ICHORD, Mr. JEFFORDS, Mr. JOHNSON of California, Miss JORDAN, Mr. LAFALCE, Mr. LENT, Mr. LONG of Maryland, Mr. MCKINNEY, Mr. MAGUIRE, Mr. MAZZOLI, and Mr. MEEDS):

H.R. 10135. A bill to amend section 552a of title 5, United States Code, to authorize the disclosure to Members of Congress or their designates of information regarding individuals for casework purposes; to the Committee on Government Operations.

By Mr. FORD of Michigan (for himself, Mr. MELCHER, Mr. NIX, Mr. PATTERSON of California, Mr. PATTISON of New York, Mr. PEPPER, Mr. RAILSBACK, Mr. ROSTENKOWSKI, Mr. SHIPLEY, Mr. SIMON, Mr. SOLARZ, Mr. STRATTON, Mr. THOMPSON, Mr. VAN DEERLIN, Mr. VANDER VEEN, Mr. VIGORITO, Mr. WAXMAN, Mr. WHITE, and Mr. YATRON):

H.R. 10136. A bill to amend section 552a of title 5, United States Code, to authorize the disclosure to Members of Congress or their designates of information regarding individuals for casework purposes; to the Committee on Government Operations.

By Mr. KOCH (for himself and Mr. DOWNEY of New York):

H.R. 10137. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. MEEDS (for himself, Mr. PERKINS, and Mr. DOMINICK V. DANIELS):

H.R. 10138. A bill to create the Young Adult Conservation Corps to complement the Youth Conservation Corps; to the Committee on Education and Labor.

By Mr. MEEDS:

H.R. 10139. A bill to correct inequities in certain franchise practices, to provide franchisors and franchisees with evenhanded protection from unfair practices, to provide consumers with the benefits which accrue from a competitive and open market economy, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 10140. A bill to incorporate the National Ski Patrol System, Inc.; to the Committee on the Judiciary.

H.R. 10141. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes; to the Committee on the Judiciary.

By Mr. MIKVA (for himself, Mr. MOSHER, Mr. JEFFORDS, and Mr. PATTISON of New York):

H.R. 10142. A bill to correct inequities in certain franchise practices, to provide franchisors and franchisees with evenhanded protection from unfair practices, to provide consumers with the benefits which accrue from a competitive and open-market economy, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mrs. MINK:

H.R. 10143. A bill to amend title II of the Social Security Act to exclude all of a woman's child-rearing years in the computation of her benefits, to permit an uninsured wife of an insured individual to qualify for wife's benefits at age 62 even though such individual has not yet become eligible for old-age or disability benefits, to provide that a person entitled to mother's benefits may continue to receive such benefits (without regard to age) even after the children of the insured individual have ceased to be entitled to child's benefits; and to further amend title II of the Social Security and chapter 21 of the Internal Revenue Code of 1954 to provide coverage under the old-age survivors, and disability program for service performed by an individual in the employ of his or her spouse; to the Committee on Ways and Means.

By Mr. NIX (for himself, Mr. WHALEN, Mr. SOLARZ, Mr. BIESTER, and Mr. HAMILTON):

H.R. 10144. A bill to require that certain reports to the Congress with respect to sales of military equipment to foreign countries contain the names of any sales agents involved in such sales and the amount of any fees received by such sales agents in conjunction with such sales; to the Committee on International Relations.

By Mr. PERKINS:

H.R. 10145. A bill to establish a permanent Federal program of assistance for elementary and secondary education; to the Committee on Education and Labor.

By Mr. PREYER (for himself, Mr. HAMILTON, and Mr. SYMINGTON):

H.R. 10146. A bill to provide for affording equal educational opportunities for students in the Nation's elementary and secondary schools; to the Committee on Education and Labor.

By Mr. RHODES (for himself and Mr. GRADISON):

H.R. 10147. A bill to provide for the phased decontrol of crude oil prices to provide for a gradual transition from mandatory price and allocation controls, to amend the Emergency Petroleum Allocation Act of 1973, as amended, to provide for a deregulation tax, and for other purposes; jointly to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. RICHMOND (for himself, Mr. MOORHEAD of California, Mr. TREEN, Mr. WOLFF, Mr. RYAN, and Ms. HECKLER of Massachusetts):

H.R. 10148. A bill to amend the Internal Revenue Code of 1954 to exempt nonprofit volunteer firefighting or rescue organizations from the Federal excise taxes on gasoline, diesel fuel, and certain other articles and services; to the Committee on Ways and Means.

By Mr. RINALDO:

H.R. 10149. A bill to expedite construction starts on certain approved public works projects, and to eliminate certain procedural requirements in order to reduce delays and accelerate certain public works programs and projects in the nature of flood control; to the Committee on Public Works and Transportation.

By Mr. ROE:

H.R. 10150. A bill to protect purchasers and prospective purchasers of condominium housing units, and residents of multifamily structures being converted to condominium units, by providing for the establishment of national minimum standards for condominiums (to be administered by a newly created Assistant Secretary in the Department of Housing and Urban Development), to encourage the States to establish similar standards, and for other purposes; to the Committee on Banking, Currency and Housing.

By Mr. RUPPE:

H.R. 10151. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. SARASIN:

H.R. 10152. A bill to amend the Regional Rail Reorganization Act of 1973 to authorize the Secretary of Transportation to enter into agreements for purposes of repairing the Poughkeepsie Bridge in New York; to the Committee on Interstate and Foreign Commerce.

Mrs. SCHROEDER:

H.R. 10153. A bill to authorize the sale, and shipment incident to such sale, of the chemical substance carbonyl chloride by the Department of Defense; to the Committee on Armed Services.

By Mr. THORNTON (for himself, Mr. TEAGUE, Mr. BROWN of California, and Mr. MCCORMACK):

H.R. 10154. A bill to establish in the Energy Research and Development Administration an Energy Extension Service to develop, demonstrate, and analyze energy conservation opportunities, and to develop programs to encourage acceptance and adoption of energy conservation opportunities by energy consumers; to the Committee on Science and Technology.

By Mr. VANDER VEEN:

H.R. 10155. A bill to amend the Internal Revenue Code of 1954 with respect to the exempt function income of a political organization; to the Committee on Ways and Means.

By Mr. YOUNG of Florida (for himself and Mr. BAFALIS):

H.R. 10156. A bill to amend title 10 of the United States Code in order to remove the limitation on the number of Junior Reserve Officers' Training Corps units which may be established and other limitations regarding such units; to the Committee on Armed Services.

By Mr. YOUNG of Florida (for himself, Mr. BAFALIS, Mr. BURGENER, Mr. COHEN, Mr. CORNELL, Mr. DUNCAN of Tennessee, Mr. EILBERG, Mr. FASCELL, Mr. HARRINGTON, Mr. HECHLER of West Virginia, Mr. HYDE, Mr. LAGOMARSINO, Mrs. MINK, Mr. MOAKLEY, Mr. OTTINGER, Mr. PATTEN, Mr. PATTISON of New York, Mr. PRESSLER, Mr. REGULA, Mr. ROE, Mr. ROUSH, Mr. RUSSO, Mr. SANTINI, Mr. SARBANES, and Mr. SOLARZ):

H.R. 10157. A bill to amend part A of title XVIII of the Social Security Act to freeze the inpatient hospital deductible under the medicare program at its 1975 level; to the Committee on Ways and Means.

By Mr. YOUNG of Florida (for himself, Mr. THOMPSON, Mr. WALSH, Mr. CHARLES WILSON of Texas, and Mr. EDGAR):

H.R. 10158. A bill to amend part A of title XVIII of the Social Security Act to freeze the inpatient hospital deductible under the medicare program at its 1975 level; to the Committee on Ways and Means.

By Mr. ANDERSON of California (for himself, Mr. LLOYD of California, Mrs. PETTIS, Mr. BURGENER, Mr. MCCORMACK, Mr. CHARLES WILSON of Texas, Mr. PATTISON of New York, Mr. BOLAND, Mr. WAXMAN and Mrs. HECKLER of Massachusetts):

H.R. 10159. A bill to amend section 552a of title 5, United States Code, to permit Members of Congress to receive information from Federal agencies regarding individuals; to the Committee on Government Operations.

By Mr. ESCH:

H.R. 10160. A bill to improve the delivery of essential manpower services authorized by the Comprehensive Employment and Training Act, to extend and improve programs au-

thorized by the Emergency Jobs and Unemployment Assistance Act of 1974, to improve manpower programs for the Nation's youth and disadvantaged, and for other purposes; jointly to the Committees on Ways and Means, and Education and Labor.

By Mr. ASPIN (for himself and Mr. SIMON):

H.R. 10161. A bill to require the U.S. Postal Service to provide postal lock boxes for certain persons who reside in rural areas; to the Committee on Post Office and Civil Service.

By Mr. BERGLAND:

H.R. 10162. A bill to redetermine wheat, feed grain, and upland cotton allotments on the basis of current actual acreages planted for harvest; to the Committee on Agriculture.

By Mr. CARTER:

H.R. 10163. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care; to the Committee on Ways and Means.

By Mr. DEL CLAWSON (for himself, Mrs. BURKE of California, Mr. CARTER, Mrs. SULLIVAN, Mr. SYMMS, Mr. WHITE, Mr. WHITEHURST, Mr. WYDLER, Mr. FRENZEL, Mr. GRASSLEY, and Mr. YATES):

H.R. 10164. A bill to establish a method whereby the Congress (acting in accordance with specified procedures) may prevent the adoption by the executive branch of rules or regulations which are contrary to law or inconsistent with congressional intent or which go beyond the mandate of the legislation which they are designed to implement; jointly to the Committees on the Judiciary and Rules.

By Mr. D'AMOURS:

H.R. 10165. A bill to provide for the exclusion of industrially funded personnel in computing the total number of civilian personnel authorized by law for the Department of Defense in any fiscal year; to the Committee on Armed Services.

By Mr. DEL CLAWSON (for himself, Mr. ABDNOR, Mr. CLANCY, Mr. CONLAN, Mr. DERWINSKI, Mr. DOWNEY of New York, Mr. GOLDWATER, Mr. GUYER, Mr. HANSEN, Mrs. HECKLER of Massachusetts, Mr. HEFNER, Mr. HUGHES, Mr. JEFFORDS, Mr. JENRETTE, Mr. JOHNSON of Colorado, Mr. KASTEN, Mr. LANDRUM, Mr. LLOYD of California, Mr. MCKINNEY, Mr. MAZZOLI, Mr. MONTGOMERY, Mr. MOORE, Mr. REGULA, Mr. SANTINI, and Mr. SPENCE):

H.R. 10166. A bill to establish a method whereby the Congress (acting in accordance with specified procedures) may prevent the adoption by the executive branch of rules or regulations which are contrary to law or inconsistent with congressional intent or which go beyond the mandate of the legislation which they are designed to implement; jointly to the Committees on the Judiciary, and Rules.

By Mr. DRINAN:

H.R. 10167. A bill to require the Federal Energy Administration to preserve all fees collected under the oil import fee program for eventual distribution to the consuming public; jointly to the Committees on Ways and Means, and the Judiciary.

By Mr. EILBERG:

H.R. 10168. A bill to facilitate and encourage the implementation by States of child day care services programs conducted pursuant to title XX of the Social Security Act, and to promote the employment of welfare recipients in the provision of child day care services; to the Committee on Ways and Means.

By Mr. GRADISON:

H.R. 10169. A bill to amend title 39, United States Code, to prohibit certain franked mailings by Members of the Congress during certain periods before elections; to the Committee on Post Office and Civil Service.

By Mr. HEINZ:

H.R. 10170. A bill to amend title 18 of the United States Code in order to provide for greater penalties on persons convicted of conspiring to commit any offense against the United States or to defraud the United States; to the Committee on the Judiciary.

By Mr. HEINZ (for himself, Mr. VANDER VEEN, Mr. FORD of Michigan, Mrs. MEYNER, Mr. RIEGLE, Mr. MCKINNEY, Mr. WOLFF, Mr. PATTERSON of California, Mr. SIMON, Mr. SANTINI, Mr. BEDELL, Mr. NEAL, Mr. LITTON, Mr. D'AMOURS, Mr. RUNNELS, Mr. ROUSH, Mr. O'BRIEN, and Mr. GIAIMO):

H.R. 10171. A bill to establish a National Commission on Regulatory Reform; to the Committee on Interstate and Foreign Commerce.

By Mr. HEINZ (for himself, Ms. CHISHOLM, Mr. ROE, Mr. FASCELL, Ms. ABZUG, Mr. D'AMOURS, Mr. SCHEUER, Mr. WAXMAN, Mr. WIRTH, Mr. BOB WILSON, Mr. BONKER, Mr. PEPPER, Mr. MCDADE, Mr. SARASIN, Mr. GUDE, Mr. CLEVELAND, and Mr. LAGOMARSINO):

H.R. 10172. A bill to amend title XX of the Social Security Act to provide that no State shall be required to administer individual means tests for provision of education, nutrition, transportation, recreation, socialization, or associated services provided thereunder to groups of low-income individuals aged 60 or older; to the Committee on Ways and Means.

By Mr. HELSTOSKI (for himself, Mr. DOMINICK V. DANIELS, Mrs. FENWICK, Mr. FLORIO, Mr. FORSYTHE, Mr. HOWARD, Mr. HUGHES, Mr. MAGUIRE, Mrs. MEYNER, Mr. MINISH, Mr. PATTEN, Mr. RINALDO, Mr. RODINO, Mr. ROE, and Mr. THOMPSON):

H.R. 10173. A bill to amend title II of the Social Security Act to permit a State, under its section 218 Agreement, to terminate social security coverage for State or local policemen or firemen without affecting the coverage of other public employees who may be members of the same coverage group (and to permit the reinstatement of coverage for such other employees in certain cases where the group's coverage has previously been terminated); to the Committee on Ways and Means.

By Mr. HILLIS:

H.R. 10174. A bill to repeal the Real Estate Settlement Procedures Act of 1974; to the Committee on Banking, Currency and Housing.

By Mr. JONES of Oklahoma:

H.R. 10175. A bill to authorize the Secretary of the Army to expedite accomplishment of urban flood control and flood plain management plans; to the Committee on Public Works and Transportation.

By Mr. MILLS:

H.R. 10176. A bill to amend the Tariff Schedules of the United States with respect to the tariff treatment accorded to technologically advanced, high precision watches and watch movements; to the Committee on Ways and Means.

By Mr. MOSS (for himself, Mr. DINGELL, and Mr. VAN DEERLIN):

H.R. 10177. A bill to regulate commerce by establishing uniform test protocols for consumer products, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MOTTL (for himself, and Mr. HAWKINS):

H.R. 10178. A bill to restore and promote competition in the petroleum industry, and for other purposes; to the Committe on the Judiciary.

By Mr. OBERSTAR:

H.R. 10179. A bill to designate the new Poe lock on the Saint Marys River at Sault Sainte Marie, Mich., as the John A. Blatnik lock; to the Committee on Public Works and Transportation.

By Mr. PATTERSON of California:

H.R. 10180. A bill to provide for tax reform; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 10181. A bill to amend the Internal Revenue Code of 1954 to increase to $1,200 the personal income tax exemptions of a taxpayer (including the exemption for a spouse, the exemptions for dependents, and the additional exemptions for old age and blindness); to the Committee on Ways and Means.

By Mr. ROSENTHAL:

H.R. 10182. A bill to establish an independent agency, to be known as the Visa and Naturalization Administration, in order to improve the efficiency and economy of the operations of the Federal Government with respect to immigration, and for other purposes; to the Committee on Government Operations.

By Mr. ST GERMAIN:

H.R. 10183. A bill to strengthen the supervisory authority of the Federal banking agencies over financial institutions and their affiliates, to amend section 5146 of the Revised Statutes with respect to the qualifications of directors of national banks, to amend the Bank Holding Company Act of 1956 to provide special procedures for the acquisition of failing banks or bank holding companies and for the acquisition of banks or bank holding companies in emergencies, and to amend the Federal Deposit Insurance Act, and for other purposes; to the Committee on Banking, Currency and Housing.

By Mr. STAGGERS (by request):

H.R. 10184. A bill to amend the Regional Rail Reorganization Act of 1973 to facilitate implementation of the final system plan by broadening the purposes for which assistance is available under title IV, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. JAMES V. STANTON:

H.R. 10185. A bill to restore and promote competition in the petroleum industry, and for other purposes; to the Committee on the Judiciary.

By Mr. STEIGER of Wisconsin:

H.R. 10186. A bill to amend title II of the Social Security Act to permit the payment of child's insurance benefits to a minor child legally adopted by an individual entitled to old-age or disability insurance benefits (whether the adoption occurred before or after such individual became so entitled) if such child was living with and being supported by such individual for a year immediately before filing application for such child's insurance benefits; to the Committee on Ways and Means.

By Mr. SYMINGTON:

H.R. 10187. A bill to amend the act of May 23, 1908, and the act of March 1, 1911, for the purpose of increasing the amount of money paid to States and counties under such acts; to the Committee on Agriculture.

By Mr. TRAXLER:

H.R. 10188. A bill to amend chapter 61 of title 18, United States Code, to permit the transportation, mailing, and broadcasting of advertising and other information concerning a bingo game authorized by and licensed under State law, and for other purposes; to the Committee on the Judiciary.

By Mr. TRAXLER (for himself, Mr. VANDER VEEN, Mr. BRODHEAD, Mr. FORD of Michigan, Mr. RIEGLE, Mr. CARR, and Mr. BLANCHARD):

H.R. 10189. A bill to amend the regional Rail Reorganization Act of 1973 to require the Consolidated Rail Corporation to provide rail service over certain light density lines, to provide increased financial assistance for local rail services, to direct the Rail Services Planning Office to conduct an analysis of certain rail lines not designated for inclusion in the final system plan, and for other pur-

poses; to the Committee on Interstate and Foreign Commerce.

By Mr. VIGORITO (for himself, Mr. BALDUS, Mr. BERGLAND, Mr. BOWEN, Mr. BRECKINRIDGE, Mr. BROWN of California, Mr. D'AMOURS, Mr. ENGLISH, Mr. FITHIAN, Mr. HARKIN, Mrs. HECKLER of Massachusetts, Mr. JEFFORDS, Mr. JENRETTE, Mr. JONES of Tennessee, Mr. LITTON, Mr. MELCHER, Mr. MEZVINSKY, Mr. NOLAN, Mr. PEYSER, Mr. RICHMOND, Mr. ROSE, and Mr. WEAVER):

H.R. 10190. A bill to encourage the direct marketing or agricultural commodities from farmers to consumers; to the Committee on Agriculture.

By Mr. ANNUNZIO (for himself, Mrs. FENWICK, Mrs. SULLIVAN, Mrs. SPELLMAN, Mr. BARRETT, Mr. GONZALEZ and Mr. FAUNTROY):

H.R. 10191. A bill to amend the Consumer Credit Protection Act to prohibit abusive practices by debt collectors; to the Committee on Banking, Currency and Housing.

By Mr. BIAGGI (for himself, Mr. WOLFF, Mr. JONES of North Carolina, Mr. DE LA GARZA, Mr. SARBANES, Mr. DE LUGO, Mr. ROONEY, Mr. AUCOIN, Mr. PATTERSON of California, Mr. DU PONT, Mr. YOUNG of Alaska, Mr. EMERY, and Mr. RUPPE):

H.R. 10192. A bill to amend title 14, United States Code, to provide for the nondiscriminatory appointment of cadets to the U.S. Coast Guard Academy; to the Committee on Merchant Marine and Fisheries.

By Mrs. FENWICK (for herself, Mr. YATES, Mr. GILMAN, Mr. PRESSLER, Mr. HYDE, Mr. PATTISON of New York, Mr. LATTA, Mr. ANNUNZIO, Mr. ZABLOCKI, Mr. DANIELSON, Mrs. MEYNER, and Mrs. SPELLMAN):

H.R. 10193. A bill to establish a Commission on Security and Cooperation in Europe; to the Committee on International Relations.

By Mr. FLOWERS:

H.R. 10194. A bill to amend chapter 5, subchapter II, of title 5, United States Code, to provide for improved administrative procedures; to the Committee on the Judiciary.

H.R. 10195. A bill to amend chapter 5, subchapter II, of title 5, United States Code, to provide for improved administrative procedures; to the Committee on the Judiciary.

H.R. 10196. A bill to amend chapter 5, subchapter II, of title I, United States Code, to provide for improved administrative procedures; to the Committee on the Judiciary.

H.R. 10197. A bill to amend chapter 5 of title 5, United States Code, to provide for improved administrative procedures; to the Committee on the Judiciary.

H.R. 10198. A bill to amend chapter 5, subchapter II, of title 5, United States Code, to provide for improved administrative procedures; to the Committee on the Judiciary.

H.R. 10199. A bill to amend chapter 7, title 5, United States Code, with respect to procedure for judicial review of certain administrative agency action, and for other purposes; to the Committee on the Judiciary.

By Mr. HANNAFORD:

H.R. 10200. A bill to abolish certain Federal regulatory agencies and to cause the termination of certain other Federal regulatory agencies or their successor agencies after a specified period of time, and to establish procedures for periodic evaluation of regulatory agencies; jointly to the Committees on Government Operations, and Rules.

By Mr. HARRIS:

H.R. 10201. A bill to increase the contribution by the Federal Government to the costs of employees' health benefits insurance; to the Committee on Post Office and Civil Service.

By Mr. KEMP:

H.R. 10202. A bill to amend the Comprehensive Employment and Training Act of 1973 to require eligible applicants to hire veterans in connection with filling transitional public service jobs; to the Committee on Education and Labor.

H.R. 10203. A bill to reform programs administered under the Comprehensive Employment and Training Act; to the Committee on Education and Labor.

By Mr. MEZVINSKY:

H.R. 10204. A bill to amend title 38 of the United States Code so as to entitle veterans of the Mexican border period and of World War I and their widows and children to pension on the same basis as veterans of the Spanish-American War and their widows and children, respectively, and to increase pension rates; to the Committee on Veterans' Affairs.

By Mrs. SPELLMAN:

H.R. 10205. A bill to establish as part of the Outdoor Recreation Programs a program to permit certain residents to cultivate gardens on dormant Federal lands; to the Committee on Interior and Insular Affairs.

By Mr. WAGGONNER:

H.R. 10206. A bill to recognize the joint development by the State of Louisiana and the State of Texas of a recurring and environmentally sound source of energy represented by the Toledo Bend Dam and Reservoir and exempt Sabine River Authority, State of Louisiana, and Sabine River Authority of Texas, from charges for the use occupancy, and enjoyment of certain lands of the United States within the Sabine National Forest, Tex.; to the Committee on Agriculture.

By Mr. MYERS of Indiana (for himself, Mr. ABDNOR, Ms. ABZUG, Mr. ADAMS, Mr. ADDABBO, Mr. ALEXANDER, Mr. AMBRO, Mr. ANDREWS of North Carolina, Mr. ANDREWS of North Dakota, Mr. ANNUNZIO, Mr. ARMSTRONG, Mr. ASHBROOK, Mr. ASHLEY, Mr. BALDUS, Mr. BAUMAN, Mr. BEDELL, Mr. BELL, Mr. BENNETT, Mr. BERGLAND, Mr. BIAGGI, Mrs. BOGGS, Mr. BOLLING, Mr. BRADEMAS, Mr. BREAUX, and Mr. DENT):

H.J. Res. 690. Joint resolution to authorize the President to issue a proclamation designating the week of November which includes Thanksgiving Day in each year as National Family Week; to the Committee on Post Office and Civil Service.

By Mr. MYERS of Indiana (for himself, Mr. BRECKINRIDGE, Mr. BRINKLEY, Mr. BROOMFIELD, Mr. BROWN of Ohio, Mr. BROWN of Michigan, Mr. BROWN of Callifornia, Mr. BUCHANAN, Mr. BURKE of Massachusetts, Mrs. BURKE of California, Mr. PHILLIP BURTON, Mr. BUTLER, Mr. BYRON, Mr. CARR, Mr. CARTER, Mr. CASEY, Mr. CHAPPELL, Mrs. CHISHOLM, Mr. CLANCY, Mr. DON H. CLAUSEN, Mr. CLAY, Mr. COCHRAN, Mr. COHEN, Mr. CONABLE, and Mr. JOHN L. BURTON):

H.J. 691. Joint resolution to authorize the President to issue a proclamation designating the week in November which includes Thanksgiving Day in each year as National Family Week; to the Committee on Post Office and Civil Service.

By Mr. MYERS of Indiana (for himself, Mr. CORNELL, Mr. CRANE, Mr. DOMINICK V. DANIELS, Mr. DANIELSON, Mr. DE LA GARZA, Mr. DELLUMS, Mr. DEVINE, Mr. DICKINSON, Mr. DIGGS, Mr. DOWNING of Virginia, Mr. DUNCAN of Oregon, Mr. DU PONT, Mr. EARLY, Mr. EDGAR, Mr. EDWARDS of Alabama, Mr. EMERY, and Mr. LUJAN):

H.J. Res. 692. Joint resolution to authorize the President to issue a proclamation designating the week in November which includes Thanksgiving Day in each year as National Family Week; to the Committee on Post Office and Civil Service.

By Mr. MYERS of Indiana (for himself, Mr. ESCH, Mr. EVANS of Indiana, Mr. EVANS of Colorado, Mr. EVINS of Tennessee, Mrs. FENWICK, Mr. FINDLEY, Mr. FISH, Mr. FISHER, Mr. FLOOD, Mr. FLYNT, Mr. FOLEY, Mr. FORD of TENNESSEE, Mr. FORD of Michigan, Mr. FORSYTHE, Mr. FOUNTAIN, Mr. FREY, Mr. GAYDOS, Mr. GIAIMO, Mr. GIBBONS, Mr. GILMAN, Mr. GINN, Mr. GOLDWATER, Mr. GONZALEZ, and Mr. GUDE):

H.J. Res. 693. Joint resolution to authorize the President to issue a proclamation designating the week of November which includes Thanksgiving Day in each year as National Family Week; to the Committee on Post Office and Civil Service.

By Mr. MYERS of Indiana (for himself, Mr. HAGEDORN, Mr. HALEY, Mr. HALL, Mr. HAMILTON, Mr. HANLEY, Mr. HANSEN, Mr. HARRIS, Mr. HASTINGS, Mr. HAWKINS, Mr. HAYES of Indiana, Mr. HÉBERT, Mrs. HECKLER of Massachusetts, Mr. HEFNER, Mr. HEINZ, Mr. HICKS, Mr. HIGHTOWER, Mr. HILLIS, Ms. HOLTZMAN, Mr. HOWARD, Mr. HUGHES, Mr. HUNGATE, and Mr. HUTCHINSON):

H.J. Res. 694. Joint resolution to authorize the President to issue a proclamation designating the week in November which includes Thanksgiving Day in each year as National Family Week; to the Committee on Post Office and Civil Service.

By Mr. MYERS of Indiana (for himself, Mr. ICHORD, Mr. JEFFORDS, Mr. JOHNSON of Pennsylvania, Mr. JOHNSON of California, Mr. JOHNSON of Colorado, Mr. JONES of Tennessee, Mr. JONES of Oklahoma, Mr. JONES of North Carolina, Miss JORDAN, Mr. KARTH, Mr. KAZEN, Mr. KELLY, Mr. KETCHUM, Ms. KEYS, Mr. KINDNESS, Mr. KOCH, Mr. KREBS, Mr. LAGOMARSINO, Mr. LANDRUM, Mr. LATTA, Mr. LEGGETT, Mr. LEHMAN, Mr. LENT, and Mr. LLOYD of California):

H.J. Res. 695. Joint resolution to authorize the President to issue a proclamation designating the week in November which includes Thanksgiving Day in each year as National Family Week; to the Committee on Post Office and Civil Service.

By Mr. MYERS of Indiana (for himself, Mr. LONG of Louisiana, Mr. MCCLORY, Mr. MCCLOSKEY, Mr. MCCOLLISTER, Mr. MCDADE, Mr. MCDONALD of Georgia, Mr. MCEWEN, Mr. MCFALL, Mr. MCKINNEY, Mr. MACDONALD of Massachusetts, Mr. MADDEN, Mr. MADIGAN, Mr. MAGUIRE, Mr. MAHON, Mr. MARTIN, Mr. MATHIS, Mr. MATSUNAGA, Mr. MEEDS, Mrs. MEYNER, Mr. MEZVINSKY, Mr. MILFORD, Mr. MILLER of Ohio, Mr. MILLS, and Mr. MINETA):

H.J. Res. 696. Joint resolution to authorize the President to issue a proclamation designating the week of November which includes Thanksgiving Day in each year as National Family Week; to the Committee on Post Office and Civil Service.

By Mr. MYERS of Indiana (for himself, Mr. MINISH, Mrs. MINK, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MOORE, Mr. MORGAN, Mr. MOSS, Mr. MOTTL, Mr. MURPHY of Illinois, Mr. MURTHA, Mr. NATCHER, Mr. NEAL, Mr. NEDZI, Mr. NICHOLS, Mr. NIX, Mr. NOLAN, Mr. O'HARA, Mr. O'NEILL, Mr. PASSMAN, Mr. PATMAN, Mr. PATTEN, Mrs. PETTIS, Mr. PEYSER, and Mr. PICKLE):

H.J. Res. 697. Joint resolution to authorize the President to issue a proclamation designating the week in November which includes Thanksgiving Day in each year as National Family Week; to the Committee on Post Office and Civil Service.

By Mr. MYERS of Indiana (for himself, Mr. PIKE, Mr. POAGE, Mr. PRESSLER, Mr. PREYER, Mr. PRICE, Mr. QUIE, Mr. QUILLEN, Mr. RAILSBACK, Mr. RANDALL, Mr. RANGEL, Mr. REGULA, Mr. RICHMOND, Mr. RINALDO, Mr.

RISENHOOVER, Mr. RODINO, Mr. ROGERS, Mr. RONCALIO, Mr. ROSE, Mr. ROSENTHAL, Mr. ROUSH, Mr. ROUSSELOT, Mr. ROYBAL, Mrs. LLOYD of Tennessee and Mr. LONG of Maryland).

H.J. Res. 698. Joint resolution to authorize the President to issue a proclamation designating the week of November which includes Thanksgiving Day in each year as National Family Week; to the Committee on Post Office and Civil Service.

By Mr. MYERS of Indiana (for himself, Mr. RUNNELS, Mr. RUPPE, Mr. RUSSO, Mr. ST GERMAIN, Mr. SANTINI, Mr. SATTERFIELD, Mr. SCHEUER, Mr. SHARP, Mr. SHIPLEY, Mr. SHRIVER, Mr. SHUSTER, Mr. SIKES, Mr. SKUBITZ, Mr. SLACK, Mr. SMITH of Iowa, Mrs. SMITH of Nebraska, Mr. SOLARZ, Mrs. SPELLMAN, Mr. SPENCE, Mr. JAMES V. STANTON, Mr. STARK, Mr. STEED, Mr. STEELMAN, and Mr. STEIGER of Wisconsin):

H.J. Res. 699. Joint resolution to authorize the President to issue a proclamation designating the week in November which includes Thanksgiving Day in each year as National Family Week; to the Committee on Post Office and Civil Service.

By Mr. MYERS of Indiana (for himself, Mr. STEPHENS, Mr. STUCKEY, Mr. SYMMS, Mr. TAYLOR of Missouri, Mr. TAYLOR of North Carolina, Mr. TEAGUE, Mr. TRAXLER, Mr. UDALL, Mr. VANDER VEEN, Mr. VIGORITO, Mr. WHALEN, Mr. WHITE, Mr. WHITTEN, Mr. WIGGINS, Mr. CHARLES WILSON of Texas, Mr. WRIGHT, Mr. WYDLER, Mr. WYLIE, Mr. YATES, Mr. YOUNG of Georgia, Mr. YOUNG of Alaska, and Mr. ZABLOCKI):

H.J. Res. 700. Joint resolution to authorize the President to issue a proclamation designating the week in November which includes Thanksgiving Day in each year as National Family Week; to the Committee on Post Office and Civil Service.

By Mr. OTTINGER:

H.J. Res. 701. Joint resolution to confer honorary U.S. citizenship upon Christopher Columbus; to the Committee on the Judiciary.

By Mr. CLEVELAND (for himself, Mr. COLLINS of Texas, Mr. D'AMOURS, Mr. FOLEY, Mr. JEFFORDS, Mr. JOHNSON of Colorado, Mr. MCEWEN, Mr. MCHUGH, Mr. MITCHELL of New York, Mr. MOORHEAD of Pennsylvania, Mr. ROE, Mr. RUPPE, and Mr. SCHEUER):

H.J. Res. 702. Joint resolution to authorize the President of the United States to designate National Ski Week; to the Committee on Post Office and Civil Service.

By Mr. ARCHER:

H. Con. Res. 427. Concurrent resolution to declare that total Federal budget outlays for fiscal year 1977 shall not exceed $395 billion; to the Committee on the Budget.

By Mr. BELL:

H. Con. Res. 428. Concurrent resolution to declare that total Federal budget outlays for fiscal year 1977 shall not exceed $395 billion; to the Committee on the Budget.

By Mr. BROWN of Michigan:

H. Con. Res. 429. Concurrent resolution to declare that total Federal budget outlays for fiscal year 1977 shall not exceed $395 billion; to the Committee on the Budget.

By Mr. CEDERBERG:

H. Con. Res. 430. Concurrent resolution to declare that total Federal budget outlays for fiscal year 1977 shall not exceed $395 billion; to the Committee on the Budget.

By Mr. DEL CLAWSON:

H. Con. Res. 431. Concurrent resolution to declare that total Federal budget outlays for fiscal year 1977 shall not exceed $395 billion; to the Committee on the Budget.

By Mr. DICKINSON:

H. Con. Res. 432. Concurrent resolution to declare that total Federal budget outlays for fiscal year 1977 shall not exceed $395 billion; to the Committee on the Budget.

By Mr. FRENZEL:

H. Con. Res. 433. Concurrent resolution to declare that total Federal budget outlays for fiscal year 1977 shall not exceed $395 billion; to the Committee on the Budget.

By Mr. GUYER:

H. Con. Res. 434. Concurrent resolution to declare that total Federal budget outlays for fiscal year 1977 shall not exceed $395 billion; to the Committee on the Budget.

By Mr. HANSEN:

H. Con. Res. 435. Concurrent resolution to declare that total Federal budget outlays for fiscal year 1977 shall not exceed $395 billion to the Committee on the Budget.

By Mr. MICHEL:

H. Con. Res. 436. Concurrent resolution to declare that total Federal budget outlays for fiscal year 1977 shall not exceed $395 billion; to the Committee on the Budget.

By Mr. MILLER of Ohio:

H. Con. Res. 437. A concurrent resolution to declare that total Federal budget outlays for fiscal year 1977 shall not exceed $395 billion; to the Committee on the Budget.

By Mr. SIMON:

H. Con. Res. 438. Concurrent resolution relating to broadening the observance of Thanksgiving to an occasion of sharing our plenty with the hungry in other lands; to the Committee on Post Office and Civil Service.

By Mrs. SMITH of Nebraska:

H. Con. Res. 439. Concurrent resolution to declare that total Federal budget outlays for fiscal year 1977 shall not exceed $395 billion; to the Committee on the Budget.

By Mr. STEIGER of Wisconsin:

H. Con. Res. 440. Concurrent resolution to declare that total Federal budget outlays for fiscal year 1977 shall not exceed $395 billion; to the Committee on the Budget.

By Mr. WHITEHURST:

H. Con. Res. 441. Concurrent resolution to declare that total Federal budget outlays for fiscal year 1977 shall not exceed $395 billion; to the Committee on the Budget.

By Mr. ZEFERETTI:

H. Con. Res. 442. Concurrent resolution expressing the sense of the Congress with respect to the right of all of the people of Ireland to control Ireland's destiny; to the Committee on International Relations.

By Mr. BELL:

H. Res. 783. Resolution to request Federal agencies administering programs for older Americans to study the causes of crime against older Americans and to recommend programs to reduce the frequency of such crimes; to the Committee on the Judiciary.

By Mr. DENT (for himself and Mr. CARNEY):

H. Res. 784. Resolution to express concern over the attempted takeover of the Copperweld Corp., by a foreign corporation; to the Committee on Rules.

By Mr. RHODES (for himself, Mr. EDWARDS of Alabama, Mr. STEELMAN, Mr. BUTLER, Mr. MOORHEAD of California, Mr. HINSHAW, Mr. LOTT, Mr. MCKINNEY, Mr. ANDREWS of North Dakota, Mr. COUGHLIN, Mr. YOUNG of Alaska, and Mrs. HECKLER of Massachusetts:

H. Res. 785. Resolution to create a Select Committee on Energy; to the Committee on Rules.

By Mrs. BURKE of California:

H. Res. 786. Resolution to provide that employees of the House Beauty Shop shall be subject to the compensation classification system established by the House Employees Position Classification Act, and for other purposes; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. RUPPE introduced a bill (H.R. 10207) for the relief of Capt. Arthur K. Bennett, Jr., U.S. Navy, Retired; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

256. By the SPEAKER: Petition of the Pancyprian Committee of Parents and Relatives of Undeclared Prisoners and Missing Persons, Nicosia, Cyprus, relative to release of prisoners of war and an accounting of missing persons in Cyprus; to the Committee on International Relations.

257. Also, petition of the 57th National Convention of the American Legion, Minneapolis, Minn., relative to the Federal Bureau of Investigation; to the Committee on the Judiciary.

SENATE—*Thursday, October 9, 1975*

(Legislative day of Thursday, September 11, 1975)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by Hon. JESSE HELMS, a Senator from the State of North Carolina.

PRAYER

The Reverend Dr. Thomas L. Cashwell, Jr., pastor, Hayes Barton Baptist Church, Raleigh, N.C., offered the following prayer:

O God and Father of us all, in whose love we learn the meaning of life, and through whose strength we bear life's burdens more easily, we seek entrance now into Thy hearing room to speak our prayers and to be blessed of Thee.

We have been given a new day, the hours of which are our own to invest in the high adventure of building a better world. May we be good stewards so that these irreplaceable moments will be put to profitable use.

Spirit of the living God, fall fresh this day upon our Vice President and these assembled in this Chamber, and upon all who share in the affairs of government so that with honesty, moral integrity, and calm conviction they may administer adequate service for the people of this Nation and the nations of the world.

O Lord, bless their loved ones and their families. May their homes be sanctuaries of love and peace wherein they may find spiritual resources for the strain and pressures of their duties.

We pray in the name of Him who is our strength and our Redeemer. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 9, 1975.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JESSE HELMS, a Senator from the State of North Carolina, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. HELMS thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Wednesday, October 8, 1975, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination for the Federal Energy Administration and a nomination for the judiciary only.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

FEDERAL ENERGY ADMINISTRATION

The assistant legislative clerk read the nomination of William G. Rosenberg, of Michigan, to be an assistant administrator of the Federal Energy Administration.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

THE JUDICIARY

The assistant legislative clerk read the nomination of Ralph G. Thompson, of Oklahoma, to be U.S. district judge for the western district of Oklahoma.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I yield back my time. I also yield back the time under special orders. I ask unanimous consent that, due to the traffic this morning, the distinguished Senator from Ohio (Mr. GLENN) be recognized later in the morning for the full 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SINAI EARLY WARNING SYSTEM

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 138) to implement the United States proposal for the early-warning system in Sinai.

The Senate resumed the consideration of the joint resolution.

Mr. MANSFIELD. Mr. President, what is the pending question?

The PRESIDING OFFICER (Mr. LEAHY). The pending question is a motion to recommit by the Senator from South Dakota.

Mr. MANSFIELD. How much time is there on that amendment?

The PRESIDING OFFICER. An hour for the Senator from South Dakota and a half hour for the Senator from New Jersey.

Mr. MANSFIELD. Mr. President, the control of the time will be either in the hands of the manager of the joint resolution, the chairman of the Committee on Foreign Relations, or the Senator from Minnesota (Mr. HUMPHREY), or the ranking minority member, the Senator from New Jersey (Mr. CASE).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time will the time for the quorum be charged?

Mr. MANSFIELD. No one's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDER

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and that the Senate proceed to the consideration of Calendars Nos. 403, 404, and 410.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SUSPENSION OF CERTAIN SECTIONS OF THE REAL ESTATE SETTLEMENT PROCEDURES ACT

The Senate proceeded to consider the bill (S. 2327) to suspend sections 4, 6, and 7 of the Real Estate Settlement Procedures Act of 1974, which had been reported from the Committee on Banking, Housing and Urban Affairs with an amendment to strike all after the enacting clause and insert the following:

That (a) section 4 of the Real Estate Settlement Procedures Act is amended by inserting "(a)" after "SEC. 4." and by adding the following subsection:

"(b) The provisions of this section are suspended for one year after date of enactment of this subsection.".

(b) Section 6 of the Real Estate Settlement Procedures Act is amended by adding the following subsection:

"(f) The provisions of this section are suspended for one year after date of enactment of this subsection.".

(c) Section 7 of the Real Estate Settlement Procedures Act is amended by adding the following subsection:

"(d) The provisions of this section are suspended for one year after date of enactment of this subsection.".

SEC. 2. Section 121 of the Truth in Lending Act (15 U.S.C. 1631) is amended by repealing subsection (c).

Mr. ABOUREZK. Mr. President, today we are asked to suspend for 1 year sections 6 and 7 of RESPA. There have been some important problems with implementation of the act, and time is needed to make changes and reconcile the interests of lenders and consumers.

But I believe we are not so far from general agreement on reasonable regulations and compromises that a year-long suspension is justified. I understand that interested parties have already discussed a revision of RESPA which would, first, repeal the two provisions most objectionable to lenders; second, maintain the meaningful advance disclosure of real estate settlement costs which are of most value to consumers; and third, accommodate the technical changes which HUD sought.

Considering that the substantive concerns that those involved have expressed are susceptible to prompt action and, hopefully, agreement, it seems to me inappropriate to jump for a 1-year suspension, when we would like to be able to have a more lasting solution within weeks or months.

The House Banking Committee has scheduled hearings on this issue for October 28–30. With that in mind, and Senate consideration of substantive changes also very likely this fall, the urgency of suspending for 1 year escapes me.

Although I do not oppose S. 2327, I would hope that we can move to resolve the difficulties lenders face in a substan-

tive way without suspending important consumer protections contained in RESPA.

Mr. PROXMIRE. Mr. President, the Banking Committee held 3 days of hearings last month on the Real Estate Settlement Procedures Act of 1974, commonly known as RESPA. On the basis of testimony received, the committee has concluded that the disclosure provisions of RESPA as presently drafted are largely unworkable, and we are recommending a 1-year suspension of sections 4, 6 and 7, to give lenders, borrowers, and realtors some relief from this act while the committee devises an acceptable substitute.

RESPA was enacted last year on the premise that real estate closings often involve excessive settlement charges. This was and still is true. But rather than regulate these charges or require that the lender absorb them, the Congress passed a rather elaborate disclosure statute. The idea was that if the consumer had advance warning of the costs, he could shop around among providers. This theory was wrong in several respects. Most borrowers are essentially captive customers; they lack the bargaining power to act on the information that is disclosed. As I warned last year in my dissenting views when RESPA was reported, the average homebuyer is a babe in the woods. The lenders and the title companies possess most of the sophistication and the bargaining power. I feared then that RESPA would be a very weak remedy. It now turns out that in addition to being weak, RESPA is excessive, because it buries all parties to the transaction in paperwork and delay. The 12-day waiting period after the RESPA statement is received by the borrower is too short to do him much good if he wants to shop around, but it is long enough to cause great inconvenience if a particular homebuyer has the moving van loaded and wants to settle in a hurry. So we have the worst of both worlds: A great deal of redtape that is not even doing the consumer much good.

Therefore, the committee has unanimously voted to report S. 2327, which mandates a 1-year suspension of three sections of RESPA: Section 4, which requires the uniform settlement statement; section 6, which mandates advance disclosure; and section 7, which calls for the advance disclosure, in certain cases, of the previous selling prices.

Mr. President, while these suspensions are in effect, the committee will attempt to devise a more reasonable approach. In principle, we support the idea that the consumer is entitled to know what his closing costs will be. I hope we can devise a simplified procedure that provides that information, but eliminates the elaborate paperwork and the mandatory waiting period. I also hope we can tighten the loopholes in RESPA which permit the lender to dictate who shall provide the settlement services, with the result that even if a buyer has advance disclosure and the sophistication to act on it, he may still be the captive customer of a particular provider who makes exorbitant charges.

This law has only been on the books for some 3 months, but the complaints from consumers as well as lenders and realtors have been overwhelming. Nothing like this happened when we passed truth in lending. Disclosure is usually a valid remedy. I am still convinced that sunlight is the best disinfectant, but unless each application is well-conceived, we could all perish from sunstroke.

We are leaving intact other provisions of RESPA that are not controversial—section 8, for example, prohibits kickbacks and unnecessary charges. The committee received information that this section has cut title search costs up to 50 percent in some areas. The committee also plans to work with HUD to clarify that certain practices, such as multiple listings and out-of-town referrals by realtors, are not prohibited by section 8.

I hope the Senate will approve S. 2327, and that the Banking Committee will take advantage of the 1-year respite from RESPA to think through and report a more acceptable substitute. Normally, we would simply do this as a matter of course, but in this case the public deserves some relief and I urge that the suspension be enacted while the committee devises something better.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PEACE CORPS ACT AMENDMENT

The Senate proceeded to consider the bill (H.R. 6334) to amend further the Peace Corps Act, which had been reported from the Committee on Foreign Relations with amendments as follows:

On page 1, line 6, strike "$88,468,000" and insert "$80,826,000";

On page 1, line 8, strike "$27,887,000" and insert "$25,729,000"; and

On page 2, line 19, strike:

SEC. 5. Section 5(c) of the Peace Corps Act (22 U.S.C. 2504(c)) is amended by striking out "$75" and inserting in lieu thereof "$125".

And insert in lieu thereof:

SEC. 5. (a) Section 105(a)(1) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955(a)(1)) is amended by striking out "$50" and inserting in lieu thereof "$75".

(b) There are authorized to be appropriated, in addition to the sums authorized to be appropriated pursuant to section 501 of such Act, such additional sums as may be necessary to carry out the amendments made by subsection (a) of this section. Such amendments are to be effective for each fiscal year only to such extent and for such amounts as are specifically provided for such purpose in such appropriation Acts.

SEC. 6. (a) Section 5(c) of the Peace Corps Act (22 U.S.C. 2504(c)) is amended by striking out "$75" and inserting in lieu thereof "$125".

(b) There are authorized to be appropriated to carry out the amendment made by subsection (a) of this section, $7,642,000 for the fiscal year ending June 30, 1976, and $2,158,000 for the period beginning July 1, 1976, and ending September 30, 1976. Such amendment is to be effective for any fiscal year only to such extent and in such amounts as are specifically provided for such purpose in appropriation Acts.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

An Act to amend further the Peace Corps Act, and for other purposes.

HAYM SALOMON DAY

The Senate proceeded to consider the joint resolution (S.J. Res. 99) to authorize and request the President to issue a proclamation designating January 4, 1976, as "Haym Salomon Day."

Mr. HUGH SCOTT. Mr. President, on the eve of our Bicentennial it is most fitting that we now consider Senate Joint Resolution 99, a resolution to authorize and request the President to issue a proclamation designating January 4, 1976, as "Haym Salomon Day."

The story of Haym Salomon poses the most fascinating picture of any Jew in the American Revolution. He was the patriot financier who helped raise money to carry on the American Revolution and later saved our emerging Nation from economic collapse.

Haym Salomon came to Philadelphia penniless in 1778, the British having confiscated his property in New York. But in the Capital City of the new Nation there were business and speculative opportunities for a trader with imagination. His business prospered, and within the next few years he became a leading broker in Philadelphia and one of the largest depositors in the Bank of North America, to which he was a subscriber.

In June, 1781, Robert Morris, the Superintendent of Finance, engaged Salomon to help with the young country's finances. He negotiated all the loans raised in France and Holland, pledging his personal faith and fortune, and personally advanced large sums to such men as James Madison, Thomas Jefferson, and other patriotic leaders who testified that without his aid they could not have carried on in the cause.

Salomon died on January 4, 1785, at the age of 44. His fortune had been devoured equipping military units, paying foreign agents, and the salaries of Government officials.

At this milestone in American history, it is increasingly important to recognize the great people that labored and sacrificed for American independence. Haym Salomon stands among our country's great who during crucial times labored and sacrificed for this cause.

I urge my colleagues to join me in support of Senate Joint Resolution 99. As a symbol, as a man, and as a Jewish American, Salomon deserves this tribute.

The joint resolution (S.J. Res. 99) was engrossed for a third reading, read the third time, and passed, as follows:

S.J. RES. 99

Joint resolution to authorize and request the President to issue a proclamation designating January 4, 1976, as "Haym Salomon Day"

Whereas Haym Salomon, financier, banker, and patriot, risked life, limb, and personal fortune in order to support the American Revolution and to save the emerging United States from economic collapse; and

Whereas Haym Salomon died on January 4, 1785, of complications from an illness contracted while a British prisoner; and

Whereas Haym Salomon left a legacy of dedication, loyalty, and altruism to his family, friends, and his country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to recognize the contribution made by Haym Salomon to the cause of the American Revolution, the President is authorized and requested to issue a proclamation designating January 4, 1976, as "Haym Salomon Day", and calling upon the people of the United States and interested groups and organizations to observe that day with appropriate ceremonies and activities.

MARITIME APPROPRIATION AUTHORIZATION ACT OF 1975—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President I submit a report of the committee of conference on S. 1542, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1542) to authorize appropriations for the fiscal year 1976 for certain maritime programs of the Department of Commerce, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

The conference report is as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1542) to authorize appropriations for the fiscal year 1976 for certain maritime programs of the Department of Commerce, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Maritime Appropriation Authorization Act of 1975".

SEC. 2. Funds are authorized to be appropriated without fiscal year limitations as the Appropriation Act may provide for the use of the Department of Commerce, for the fiscal year 1976, as follows:

(1) For acquisition, construction, or reconstruction of vessels and for construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, not to exceed $195,000,000.

(2) For payment of obligations incurred for operating-differential subsidy, not to exceed $315,936,000.

(3) For expenses necessary for research and development activities, not to exceed $12,232,000.

(4) For reserve fleet expenses, not to exceed $4,242,000.

(5) For maritime training at the Merchant Marine Academy at Kings Point, New York, not to exceed $195,000,000.

(6) For financial assistance to State marine schools, not to exceed $4,708,000.

SEC. 3. There are authorized to be appropriated for the fiscal year 1976, in addition to the amounts authorized by section 2 of this Act, such additional supplemental amounts, for the activities for which appropriations are authorized under section 2 of this Act, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, and for increased costs for public utilities, food service, and other expenses of the Merchant Marine Academy at Kings Point, New York.

SEC. 4. Section 809(a) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1213(a)) is amended by inserting immediately after the first sentence thereof the following: "In order to assure equitable treatment for each range of ports referred to in the preceding sentence, not less than 10 percent of the funds appropriated for construction differential subsidy contracts and operating differential subsidy contracts pursuant to this Act or any law authorizing funds for the purposes of this Act shall be allocated to each such port range: *Provided, however,* That such allocation shall apply to the extent that subsidy contracts are approved by the Secretary of Commerce. Not later than March 1, 1976, and annually thereafter, the Secretary shall submit to Congress a detailed report (1) describing the actions that have been taken pursuant to this Act to assure insofar as possible that direct and adequate service is provided by United States-flag commercial vessels to each range of ports referred to in this section; and (2) including any recommendations for additional legislation that may be necessary to achieve the purpose of this section."

SEC. 5. Section 1103(f) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1273(f)) is amended by striking "$5,000,000,000", and inserting in lieu thereof "$7,000,000,000".

And the House agree to the same.

WARREN G. MAGNUSON,
RUSSELL B. LONG,
ERNEST F. HOLLINGS,
J. GLENN BEALL, JR.,
Managers on the Part of the Senate.

LEONOR K. SULLIVAN,
THOMAS L. ASHLEY,
THOMAS N. DOWNING,
JOHN D. DINGELL,
PAUL G. ROGERS,
PHILIP E. RUPPE,
PAUL N. MCCLOSKEY,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1542), to authorize appropriations for the fiscal year 1976 for certain maritime programs of the Department of Commerce, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE OF THE ACT

Section 1 of the Senate bill provides "That this Act may be cited as the 'Maritime Appropriation Authorization Act of 1975'." The House amendment does not contain a comparable provision. The conferees agreed to the title in the Senate bill, and accompanying technical changes in the numbering of the sections.

CONSTRUCTION-DIFFERENTIAL SUBSIDY

Section 2(1) of the Senate bill authorizes $195 million for construction-differential subsidy, whereas section 1(a) of the House amendment authorizes $240 million for this activity. The conferees agreed to $195 million because the Maritime Administration reduced its fiscal year 1976 appropriations request to that amount due to the cancellation of several ship construction orders.

STATE MARINE SCHOOLS

Section 2(6) of the Senate bill authorizes $4,708,000 for financial assistance to the State marine schools, whereas section 1(f) of the House amendment authorizes $5,808,000 for this activity. The increase of $1.1 million in the House amendment would authorize funding of section 4 of the House amendment which was not adopted by the Conferees. The managers on the part of the House receded on the issue; therefore, the Conferees agreed to the lesser amount of $4,708,000.

Section 4 of the House Amendment amends 6(a) of the Maritime Academy Act of 1958, as amended (46 U.S.C. 1385(a)), to increase the ceiling on the Federal subsistence payments which the Secretary of Commerce may pay to students at the State marine schools from $600 to $1200 per academic year. The Senate bill does not contain a comparable provision. This provision of the House amendment was not agreed to in Conference.

The Conferees did not feel that an adequate background had been developed to justify the increase. Hearings on the issue have not been held in either the House or the Senate. Furthermore, the House Merchant Marine and Fisheries Committee has not considered the report of its Ad Hoc Committee on Maritime Education and Training, which made a detailed 18-month survey of the State and Federal Maritime Academies and issued a report. The report was unanimously approved by the House Merchant Marine Subcommittee.

Legislation similar to section 4 of the House amendment is pending before the House Committee on Merchant Marine and Fisheries and the Conferees concluded that consideration of that bill would be the most appropriate means for resolving this matter. The House Committee expects to act on the bill expeditiously.

CAPITAL CONSTRUCTION FUND

Section 4 of the Senate bill amends section 607(g) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177(g)), to clarify the intent of the Congress with respect to the relationship between the Capital Construction Fund provided by section 607 and the Investment Tax Credit provided by section 38 of the Internal Revenue Code of 1954 (26 U.S.C. 38). The House amendment does not contain a comparable provision. The managers on the part of the House agree with the merits of section 4 of the Senate bill and with the language of Senate Report 94–96 concerning that provision. However, both the Merchant Marine and Fisheries Committee and the Ways and Means Committee, of the House of Representatives, have an interest in the issue. In the interest of avoiding further delay in the enactment of S. 1542, the Conferees determined to delete the provision.

When section 607 of the Merchant Marine Act, 1936, was substantially revised in the Merchant Marine Act, 1970 (P.L. 91–469), the Ways and Means Committee and the Merchant Marine and Fisheries Committee agreed that the latter committee should take jurisdiction of the matter. The Chairman of the Merchant Marine and Fisheries Committee sought the same arrangement with the Ways and Means Committee with respect to Section 4 of the present Senate bill. After several months delay, the Ways and Means Committee determined that it should review the subject matter of section 4 of the Senate bill. The Ways and Means Committee also stated that it would take up the matter ex-

peditiously and the managers on the part of the House intend to keep in close touch with the Ways and Means Committee with respect to this matter.

In view of the conferees, the amendment to section 607 contained in Section 4 of the Senate bill was solely a clarifying amendment, intended to bring administrative practice into conformity with Congressional intent. Although properly understood by the Department of Commerce, section 607 has heretofore been erroneously interpreted by the Treasury Department. In the view of the conferees, section 4 of the Senate bill accurately represents the state of existing law and appropriate Federal maritime policy. It is hoped that the manifest Congressional purpose of stimulating the growth of the U.S.-flag merchant marine will now be recognized by the Treasury Department and that no further legislation will be required. However, in the event that further legislation is needed to correct administrative practice, the conferees look to the commitment of the Ways and Means Committee to take up the matter expeditiously. For the present, however, the conferees have determined that the amendment to section 607 should be deleted in order to prevent further delay in the enactment of the maritime authorization bill.

SUBSIDY ALLOCATION

Section 5 of the Senate bill amends section 809(a) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1213(a)), to require that not less than 10 percent of the Maritime Administration program funds be allocated to serve the foreign trade requirements of the ports of each of the four seacoasts of the United States. The amendment limits the 10 percent requirement by providing that this allocation applies only "to the extent that subsidy contracts have been approved by the Secretary of Commerce." The House bill does not contain a comparable provision.

The amendment recognizes the unique problems confronting the Great Lakes-St. Lawrence Seaway. It is intended to respond to the special needs and problems confronting this range of ports which was designated in the Merchant Marine Act, 1970, as the "fourth seacoast" of the United States.

The conferees agreed to this section of the Senate bill after amending it to apply solely to construction and operating-differential subsidy funds and concluded that the provision shall apply to all operating-differential subsidy contracts and not be limited to just new and renewed contracts.

TITLE XI GUARANTEES

Section 6 of the Senate bill increases the statutory limitation on obligations guaranteed by the Title XI Federal ship mortgage guarantee program from $5 billion to $8 billion, whereas section 3 of the House amendment raises the ceiling on guaranteed obligations from $5 billion to $7 billion. The Conferees agreed to the lesser amount of $7 billion because the amount should be sufficient to cover revised anticipated obligations during Fiscal Year 1976.

WARREN G. MAGNUSON,
RUSSELL B. LONG,
ERNEST F. HOLLINGS,
J. GLENN BEALL, JR.,
Managers on the Part of the Senate.

LEONOR K. SULLIVAN,
THOMAS L. ASHLEY,
THOMAS N. DOWNING,
JOHN D. DINGELL,
PAUL G. ROGERS,
PHILIP E. RUPPE,
PAUL N. MCCLOSKEY,
Managers on the Part of the House.

The ACTING PRESIDENT pro tempore. The question is an agreeing to the conference report.

The conference report was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time which the distinguished Senator from Ohio requested yesterday, and which was granted by the Senate, begin running now; that immediately upon the conclusion of his remarks, the Senate return to the pending business, and that then the time begin to run.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Ohio is recognized for not to exceed 15 minutes.

Mr. GLENN. I thank the distinguished majority leader.

TOLEDO: AN EXAMPLE OF NATURAL GAS WOES

Mr. GLENN. Mr. President, I was visited yesterday by a group of business and Government leaders representing several major industrial areas of my State. Their mission in coming to Washington was to determine what we are doing to alleviate the impending natural gas crisis and to outline the severity of the potential unemployment disaster in their metropolitan areas. This was a surprise visit. I did not know they were coming.

During the present debate on S. 2310, we have heard grim projections concerning State and national estimates of shortage-related unemployment. The Federal Energy Administration, for instance, contemplates layoffs of up to 500,000 Americans due to natural gas curtailments.

Of all the areas in my State affected by this crisis, Toledo and adjacent regions of Northwest Ohio face the grimest winter because they are served, virtually exclusively, by pipelines that are scheduled for the severest curtailments at the producers' end.

Mr. Richard Pohlad, director for transportation and international commerce of the Toledo Area Chamber of Commerce, was one of the representatives attending our meeting yesterday, and I feel the information he and Mayor Harry Kessler imparted about the Toledo situation warrants the attention of my colleagues.

Mr. President, I have said repeatedly on the floor during this debate that Ohio and the 13 other impacted States may die on the economic vine unless we take immediate action to ease the natural gas crisis that looms in the very near future. What more chilling evidence could there be than the results of this unbiased survey taken by, and for, concerned businessmen who turn to us for leadership and direction.

Toledo offers a deep and diverse labor pool to draw from, an outstanding harbor, excellent transportation facilities, and many other features that have traditionally made it a Mecca for companies seeking industrial locations. Now, with the days ticking off rapidly toward the November 1 curtailment deadline, Government, business and labor leaders contemplate the potential for an industrial wasteland devoid of the basic ingredient of energy to power their plants. The rich economic promise of a budding recovery may soon be trampled and reversed by banked furnaces and lengthening unemployment lines.

One need look no further than the findings of the Toledo Area Chamber of Commerce to face the shocking realities continued inaction will bring.

The Toledo chamber has conducted an in-depth survey of local industrial concerns served by Columbia Gas of Ohio to determine what the area can expect this winter. The results are absolutely devastating, and anyone who can contemplate them without realizing the necessity of passing an emergency bill defies good sense.

Allow me to summarize a few of the findings.

Fully 58 percent of Toledo industries interviewed plan production cutbacks because of already announced curtailments. The firms contemplate a dropoff in production of more than 36 percent.

Total dollar loss from these cutbacks amounts to more than $65 million for the period November 1, 1975, to March 31, 1976.

Almost 60 percent of the firms predict they will have to lay off workers, and the total number of affected men and women in this one metropolitan area lies somewhere between 5,000 and 7,000, according to this study.

Especially disturbing in terms of the long-term economic development of Toledo, was the finding that 78 percent of the industries interviewed will not consider expanding there because of the gas situation.

Mr. President, I ask unanimous consent to have printed in the RECORD a summary of this significant report and urge that my colleagues review the findings with an eye toward what they hold for the economy as a whole. Toledo is atypical only in the severity of its crisis; throughout 14 States beginning within weeks there will be hundreds of cities like this facing the spectre of unemployment, economic chaos and human suffering that can be at least partially averted if we take action immediately here in Congress.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

TOLEDO AREA
CHAMBER OF COMMERCE,
Toledo, Ohio, October 7, 1975.

NATURAL GAS CURTAILMENT SURVEY

Major users of natural gas in the Toledo area which is served by Columbia Gas of Ohio were surveyed in September of 1975 to determine what the effects might be if cut backs in natural gas are implemented as announced.

Announced was a minimum 60 percent pro-rata plan, effective November 1, 1975 and a proposed end-use curtailment, affecting industrial boiler loads, also effective November 1.

Indications are that the curtailment under the pro-rata plan will exceed 60 percent and therefore this survey is contemplating a curtailment of 70 percent.

Question 1: Do you contemplate production being cut or curtailed in your Toledo area operations because of the announced natural gas curtailment?

Yes, 45 (58%).

No, 32 (42%).

Question 2: Assuming the curtailment period continues from November 1 through

March 31, what percentage of production do you estimate will be lost?

No loss, 20 (25%); loss, 42 (55%); unknown, 3 (4%).

No answer, 12 (15%).

Average of those reporting lost production, 36.5%; high, 100%; low, 5%.

Question 3: If a loss of production is indicated in number two above, what is your estimated dollar value of that loss of production?

39 companies reported dollar value loss of $65,199,600.

6 companies reported dollar value loss unknown.

Question 4: Will you fully or partially lay off employees in the Toledo area because of the upcoming natural gas cutback?

Yes, 44 (57%).

No, 30 (39%).

No answer, 3 (4%).

If so, how many jobs will be involved in whole or in part, and how many man days per month do you contemplate will be lost?

38 companies reported 5,432 jobs involved.

34 companies reported 33,454 man days lost.

Question 5: Are adjustments in numbers or lengths of shifts being considered because of the impending gas shortage?

23 companies answered yes.

Elimination of some shifts	13
Four day work week	5
Overtime production before November 1	4
Three day work week	1

Question 6: What, if any, is the additional cost you expect to incur because of the use of standby fuel or energy? Explain.

60 companies reported $9,764,377.

Reasons for cost increase:	
Added cost of alternate fuel	54
Added cost of fuel oil	
Added cost of propane	
Conversion cost	14
Storage cost	3

Question 7: What operational procedures is your company taking to lessen the impact of the natural gas curtailment:

Conversion to oil	26
Conversion to propane	7
Conversion to electric	2
Conservation for example, weekend shut down, lowering temperature, and heat recapture	34

Question 8: Do you contemplate a production shift to other sites because of the announced natural gas shortage? If so, to where?

Yes, 22 (29%).

No, 51 (66%).

No answer, 4 (5%).

Southern States	4
Michigan	9
Other areas	9

Question 9: With the impending natural gas shortages, would your company consider expanding in the Toledo area?

Yes, 10 (13%).

No, 60 (78%).

No answer, 7 (9%).

END-USE CURTAILMENT

Columbia Gas has requested approval of an end-use curtailment plan to be partially effective on November 1, 1975. The plan is partially that all industrial boiler loads of 1,000 Mcf or more in any month shall be curtailed first and up to 100 percent before any other loads are curtailed. The comments asked for were changes that would result from that proposed plan.

41 companies answered: 15 reported no change; 26 reported:

Production loss (question 2):	
Increased loss from 15% to 100%	4
Move to other facilities	1
Dollar loss of production (question 3):	
Total increased cost to $5,000,000	2
Possible lay offs (question 4):	
2,220 additional employees	3
Additional energy costs (question 6):	
Increased costs $247,000	4
Increased costs unknown	4
Increased conversion cost of $950,000	2
Companies reporting shut down if end-use enforced	6

Mr. GLENN. Mr. President, in addition to this statement, I should like to say I was thinking, as I drove in this morning, that it is a little like a statement from my old days in the Marine Corps, that I will paraphrase only for obvious reasons, that if I am up to my tail end in alligators, do not talk to me about draining the swamp. It seems to me that is about where we stand with natural gas, that we have the alligators all around us and we are about to get ourselves in deep trouble in this country, not only for those particular States and the particular cities involved. While we have debated, the situation has gotten worse and will continue to get worse as we go on the recess that I wish we could somehow avoid to stay here and work on this most important problem. It does involve not only our States and our cities, but the Nation as a whole with the impending unemployment and with the economic impact that can have on our whole society.

If we take, in this winter period, the 500,000 estimate that has been made by Mr. Zarb as the unemployment that will occur, if we just take a conservative estimate, $12,000 per job involved, and multiply that, it comes out to about a $6 billion annual wage loss. That is not even going into the ripple effect or the doubling effect of the $10 or $12 billion annualized rate of economic impact on this country. Just at a time when we are about to start recovering, to see the emergency aspects held hostage, to me, is just not right.

FOOD STAMP REFORM ACT

Mr. GLENN. Mr. President, this morning I will testify with my colleagues, Senators CHILES and NUNN of the Government Operations Committee's Subcommittee on Federal Spending Practices, Efficiency and Open Government before the Agriculture Committee's Subcommittee on Agricultural Research and General Legislation. The subject of my testimony was our bill, S. 2369, a Food Stamp Reform Act, introduced September 17.

Mr. President, Senators CHILES, NUNN and I introduced this bill after extensive subcommittee hearings the week of April 28. Since those hearings and even since the introduction of our bill, the national debate on the food stamp program has grown in intensity with many additional viewpoints and ideas being expressed.

S. 2369 had attempted to embody, legislatively, our findings that it was the itemized deduction procedure in the eligibility determination process in the food stamp program that had largely been responsible for turning a laudable program originally intended to help the poor into a bureaucratic, chaotic monstrosity that wastes taxpayer money by being inefficient, error-laden, and subject to fraud.

Our bill proposed that this complicated process of determining eligibility be scrapped and replaced with an uncomplicated standard deduction feature in which a recipient's eligibility would be determined by simply subtracting $120 plus $60 for households with members 60 years of age or older in computing net income. This standard deduction could be modified on a regional basis to reflect variations in the cost of living in different areas of the United States.

We estimated that we would reduce by 12 percent the number of households participating—650,000—and produce a cost savings of from $250–$500 million for fiscal year 1976.

Additionally, we calculated that we would affect great administrative savings by this streamlined procedure, savings that would be redirected to bring into the program those low-income people that the program currently is not reaching.

Mr. President, it is this itemized deduction procedure that is at the core of the problems besetting the food stamp program. Here is where the huge error rates lie, rates of error so high as to lead to estimates that $1 of every $6 spent by the USDA on the food stamp program is misspent. Further projections for fiscal year 1976 show that a continuation of error and fraud rates could lead to a taxpayer loss of $983 million, almost a billion dollars. The complicated itemized deduction calculation procedure not only leads to these huge error rate figures but works to the disadvantage of lower-income people not attuned to the bureaucratic maze. On the other hand, this procedure simply invites and encourages people with ample means to become "food stamp lawyers," bending and twisting regulations so as to become eligible for food stamps.

I have here an example, an insert in the Sunday, October 5, New York Times. This is an advertisement for a magazine subscription. As a lure for taking a subscription, the advertisement offers a free booklet purporting to tell families earning up to $16,000 per year how to become eligible for food stamps. This advertisement is merely symptomatic of what itemized deductions have led to.

So, I was very pleased to see that the USDA, in testimony before the Agriculture Subcommittee on Tuesday, October 7, has indicated administration support of the standard deduction idea. I was pleased to see that the distinguished Senator from Kansas (Mr. DOLE) and the distinguished Senator from South Dakota (Mr. MCGOVERN) have also placed the standard deduction eligibility determination feature in their food stamp reform bill, introduced October 2.

Mr. President, this is a change that can be enacted quickly and promptly and that can help disentangle this program from being a bureaucratic nightmare and make it what is was originally intended to be, a program to help those genuinely in need feed themselves.

Finally, Mr. President, although we must enact an immediate reform of the food stamp program, the problem does not stop with this program. Many of our

public welfare programs are filled with errors and misspent money. I am hopeful that we can begin to find better and more efficient ways of helping people help themselves rather than the current maze of haphazard, uncoordinated and often poorly run programs. I expect to be back with some specific ideas in this vital area in the near future.

Mr. President, I ask unanimous consent that the advertisement to which I previously referred be printed in the RECORD at this point.

There being no objection, the advertisement was ordered to be printed in the RECORD, as follows:

Now Americans from all walks of life—office workers, students, executives, housewives—are eligible for food stamps. In fact, the government's food-stamp program is so generous, it amounts to giving away free food.

No longer is the food-stamp program limited to the poor. In fact, under certain circumstances you can qualify for food stamps even if you earn over $15,000 a year. As Senator George McGovern, one of the nation's top food-stamp experts, declares, "Increasingly, food stamps are becoming a middle-class phenomenon."

Twenty million Americans—nearly one in ten—are now benefiting from food stamps. But here's the most astonishing fact of all: Twenty million others are eligible and don't know it!

Are you one of them? Don't you owe it to yourself to find out if you're eligible?

Exactly what are food stamps and how do you qualify for them? Food stamps are a form of "currency" redeemable at most supermarkets, groceries, and (in some cases) meals-on-wheels home-delivery food services. You buy them from the government at a discount that is determined by the size of your income, household, and living expenses. In top brackets, food stamps can triple or quadruple the buying power of your food dollar—and, if you're like the average American, food is the single biggest item in your budget.

Some families are now deriving as much as $4,000 a year in additional buying power thanks to food stamps. Shouldn't you find out if you qualify?

The facts about food stamps are not easy to get. Senator McGovern and other experts have accused the government of deliberately trying to hide the facts in order to curtail the size of the foodstamp program. But Moneysworth, the crusading consumer-affairs and personal-finance newspaper, is pleased to announce publication of a daring, enriching, honey of a booklet that reveals all. Its title is Your Piece of the Pie: How To Cash In On Food Stamps, and a copy is yours absolutely free with a 32-week subscription.

How much does a subscription cost? Incredibly, only $2.99!!

Mr. ALLEN. Will the Senator yield?

Mr. GLENN. I certainly will.

Mr. ALLEN. I commend the distinguished Senator from Ohio for his remarks. I state to him that the Subcommittee on General Legislation of the Committee on Agriculture is presently holding hearings. It will have hearings on Tuesday and Wednesday and hearings today and tomorrow, with respect to the food stamp program. I ask the distinguished Senator's permission to insert as part of that hearing his statement on the floor. I think it would be a splendid addition to the record of the hearing. With his permission, I shall insert that in the RECORD.

Mr. GLENN. Fine. I thank the distinguished Senator from Alabama and I shall be glad to comply with his wishes.

SINAI EARLY WARNING SYSTEM

The Senate continued with the consideration of the Joint Resolution (S.J. Res. 138) to implement the U.S. proposal for the early warning system in Sinai.

The PRESIDING OFFICER. The Senate will resume consideration of Senate Joint Resolution 138. Who yields time?

Mr. HUMPHREY. Mr. President, I rise for the purpose of offering a committee amendment to the pending measure, Senate Joint Resolution 138.

The PRESIDING OFFICER. The amendment will be stated.

Mr. ABOUREZK. Mr. President, is it in order to offer committee amendments?

The PRESIDING OFFICER. If there is no objection.

Without objection, it is so ordered.

The assistant legislative clerk read as follows:

On page 3, line 11, strike out "reducing" and insert in lieu thereof "ending or reducing as soon as possible".

Mr. HUMPHREY. Mr. President, I ask that it be passed.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. ABOUREZK. Mr. President, I wish to have a chance to look at these amendments.

Mr. HUMPHREY. May I say respectfully, all it does is add the word "ending" along with "reducing."

Mr. ABOUREZK. The Chair has not given me a chance to object to this. Has the Chair ordered that that amendment be agreed to?

Mr. HUMPHREY. That is correct.

Mr. ABOUREZK. I respectfully object, Mr. President, because I did not have a chance to object to it. I should like to have a look at it first.

Mr. HUMPHREY. May I just say to the Senator that there is no secret about it. It is simply adding the goal of, "ending," along with reducing, our participation.

Mr. ABOUREZK. If there is no secret to it, I ask unanimous consent, Mr. President, that the order be rescinded.

Mr. HUMPHREY. I am happy to have it.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ABOUREZK. Will the Senator from Minnesota repeat what the amendment says?

Mr. HUMPHREY. On page 3 of the resolution, on line 11, item 2, it says, "The feasibility of reducing." My amendment says that after the words "feasibility of" we make it read, "the feasibility of ending or reducing as soon as possible their participation." In other words, it strengthens the feature there. I am calling for ending or reducing.

Mr. ABOUREZK. What is the reason for this amendment? Is that to conform with the House language?

Mr. HUMPHREY. That is correct, to conform with the House language.

Mr. ABOUREZK. I understand that the Senator said yesterday that he did not want any amendments for fear there would have to be a conference.

Mr. HUMPHREY. That is correct. The purpose here is to make it similar to the House language.

We have two ways of doing this, as the Senator knows. We can either amend the Senate resolution as we have it now, or, at the conclusion of the work on the Senate resolution, we can move for the adoption of the House measure. I thought this was a cleaner way of doing it, so we will know what our bill is all the way through.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. MANSFIELD. Both.

The PRESIDING OFFICER. The time will be equally divided. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, the Senator from South Dakota, I believe, has had an opportunity to look at that language.

Mr. ABOUREZK. Yes.

Mr. HUMPHREY. Does the Senator have any objection?

Mr. ABOUREZK. No.

Mr. HUMPHREY. I thank the Senator.

The PRESIDING OFFICER. Is all time yielded back on the amendment? Does the Senator from South Dakota yield back his time?

Mr. ABOUREZK. I yield back my time on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Without objection, the amendment is agreed to.

Mr. HUMPHREY. Mr. President, may I suggest to the Senator that there is another amendment which I shall offer.

I call to the attention of the Senate that on page 2, line 10, following the period, I contemplate offering the House-adopted language that reads as follows, and I shall send over a copy:

That nothing contained in this resolution shall be construed as granting any authority to the President with respect to the introduction of the United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances, which authority he would not have had in the absence of this joint resolution.

This is language very similar to the War Powers Act. What it simply does is put a brake on the use of the American Armed Forces in any interpretation of this resolution, which I know is a matter of concern to the Senator from South Dakota.

We do not rely only upon the War Powers Act. The purpose of the resolution is to say, "No involvement of American Armed Forces."

This amendment comes at that point in the resolution where the resolution states:

That United States civilian personnel assigned to Sinai under such proposal shall be removed immediately in the event of an outbreak of hostilities between Egypt and Israel or if the Congress by concurrent resolution determines that the safety of such personnel is jeopardized or that continuation of their role is no longer necessary.

Mr. ABOUREZK. Does the Senator have a copy of that amendment so I can look at it.

Mr. HUMPHREY. Yes, I am sending it over right now.

Apparently, Mr. ECKHARDT of the other body wanted to make sure the concerns that some Members have that this resolution could authorize or be interpreted as authorizing directly or indirectly the Presidential use of Armed Forces. This particular amendment by the House makes it clear that this resolution does not so authorize, directly or indirectly.

In other words, it ties down the feeling that has been expressed, the report that accompanies this bill, to the effect that there is to be no use of American Armed Forces. That is interpreted in the hearings, that is stated in the report, but the Members of the other body voted into this bill this specific language that says:

Nothing contained in this resolution shall be construed as granting any authority with respect to the introduction of the United States Armed Forces. . . .

I think it is a very useful amendment, quite honestly.

Mr. ABOUREZK. If I can interrupt the Senator from Minnesota in reading this, if I might just read it back to my colleague:

Nothing contained in this resolution shall be construed as granting any authority to the President with respect to the introduction of the United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances, which authority he would not have had in the absence of this joint resolution.

Mr. HUMPHREY. Right.

Mr. ABOUREZK. Under the War Powers Act—and I see the Senator from New York (Mr. JAVITS) is here, he might be able to help us with this—would not the President, without this resolution, have authority?

Mr. HUMPHREY. For 30 days.

Mr. ABOUREZK. For 30 days?

Mr. HUMPHREY. Yes. This eliminates that, in this instance.

Mr. ABOUREZK. What does it do?

Mr. HUMPHREY. This prevents even that use of 30 days. This is an absolute prohibition of the use of armed forces.

Mr. ABOUREZK. The language is not all that clear to me.

I have an amendment which I intend to offer later today.

Mr. HUMPHREY. May I say to the Senator, the whole purpose of this exercise this morning is to put the Senate in line with the House bill because the leaders of the House have informed me that they will be out this afternoon. There are those of us who feel—indeed, the executive branch feels very strongly—that we should get the resolution adopted before we go off on this week of absence from our legislative halls.

I have tried, and I will try to the best of my ability, along with others here that are in the majority on the committee, to keep this bill in the Senate identical with the bill in the House so as to avoid the necessity of conference, which would have to take place 10 days from now, or so. There is a reason for that, because if this resolution is delayed it may necessitate some renegotiation under the terms of the original agreement.

This resolution was to be, hopefully, adopted this week so that the Israelis could sign the agreement, so that they could start their program of disengagement, so that they could start to remove their facilities from the oil producing areas of the Sinai.

Also, President Sadat of Egypt is on his way, coming here next week to visit with the President of the United States, and it is considered to be vitally important that this resolution, or our action, whatever action we take, be finalized befor the arrival of the President of Egypt.

This particular amendment adopted in the House, I think, is the sort of thing that the Senator from South Dakota and some of his associates are very interested in. It is not as complicated as it appears, unless we want to make it so.

What it simply says that this resolution in no way can be construed as authorizing the President to use armed forces.

In other words, if there are hostilities in the area that necessitate our getting these people out, we cannot use the armed forces, and Mr. ECKHARDT who offered the amendment in the other body said as follows:

What my amendment does is merely restate the precise last paragraph of the War Powers Act, which says that the War Powers Act does not extend to the President any additional authority granted by Congress to engage in the warmaking power. It does not restrict the President's authority, nor add to it. I have adopted the precise language of that act.

So what the Member of the House was attempting to do was to place in this resolution the precise language of the War Powers Act so that there could be no interpretation of the resolution that went beyond the War Powers Act under these emergency conditions.

I think that in light of that, since it is currently already the law, that there surely should be no objection in placing the same language in the bill that is in the War Powers Act.

Again I repeat that what it does, it says here:

Nothing contained in this resolution shall be construed as granting any authority to the President with respect to the introduction of the United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances, which authority he would not have had in the absence of this joint resolution.

It says to the President of the United States, "Mr. President, do not interpret this resolution as giving you any additional authority over and beyond what you already have under the current law of the land as adopted by the Congress."

I hope we might put that in here because it is an additional safeguard.

Mr. ABOUREZK. Well, that is my problem, I guess, with this language.

The amendment the Senator is offering, I do not think the War Powers Act does us much good in the circumstances at all because the War Powers Act allows the President to introduce armed forces under certain conditions for a period of 30 days, and there has not been a war in the Middle East that has lasted 30 days, not one of the four that have gone on over there, so it does not help us much.

What I was going to suggest to the Senator from Minnesota is that if he would accept the amendment I intend to offer today which—let me just read it to him.

Mr. HUMPHREY. I cannot accept the Senator's amendment, but go ahead and read it.

Mr. ABOUREZK. Well, I will read it anyhow.

Notwithstanding any provision of the War Powers Resolution, the President or any other officer, employee of the United States Government is expressly prohibited from using any funds or issuing any orders to use the United States armed forces personnel or equipment operated to protect the civilian personnel assigned to the Sinai authorized under section 1 of this resolution.

It goes on to say:

Nor shall an funds or personnel or equipment be used to protect, insure or guarantee any oil shipments to Israel.

Now, if the Senator is concerned—and I believe he is concerned—about the introduction of U.S. troops, that is the protection. Language of that nature will protect, not the language contained in the Senator's amendment.

Mr. HUMPHREY. Well, may I say, most respectfully that the language which we have here in the resolution, plus the Eckhardt amendment, will give you all the protection that man can conceive. First of all, the language in the resolution states:

That United States civilian personnel assigned to Sinai under such proposal shall be removed immediately in the event of an outbreak of hostilities between Egypt and Israel or if the Congress by concurrent resolution determines that the safety of such personnel is jeopardized or that continuation of their role is no longer necessary.

So you have got a directive that they shall be removed immediately. You have got the authority that Congress, if it so feels, can have them removed even if their safety is not jeopardized.

Mr. ABOUREZK. Will the Senator offer his amendment so that we can be operating on that time?

Mr. HUMPHREY. I offer the amendment.

The PRESIDING OFFICER. It will take a unanimous consent to offer the amendment.

Mr. HUMPHREY. I ask unanimous consent to offer the amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HUMPHREY. The amendment has been read, so I ask unanimous consent

that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 10, after the period, add the following:

"Nothing contained in this resolution shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution."

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the time that has been used in the discussion of that amendment start when I first read it.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ABOUREZK. Parliamentary inquiry, Mr. President. What is the time now for this amendment? Is it an hour on each side?

The PRESIDING OFFICER. Fifteen minutes on each side.

Mr. ABOUREZK. Fifteen minutes on each side?

The PRESIDING OFFICER. Yes; 15 minutes on each side.

Mr. HUMPHREY. Mr. President, I believe I have made the case as best I can in reference to this amendment. The House accepted this amendment. This amendment, Mr. President, fits into the resolve section of Senate Joint Resolution 138. That section assigns American personnel, and that section reads as follows:

That the President is authorized to implement the "United States proposal for the Early Warning System in Sinai:" *Provided, however,* That United States civilian personnel assigned to Sinai under such proposal shall be removed immediately in the event of an outbreak of hostilities between Egypt and Israel or if the Congress by concurrent resolution determines that the safety of such personnel is jeopardized or that continuation of their role is no longer necessary.

The PRESIDING OFFICER. All of the time of the Senator from Minnesota has expired. The Senator from South Dakota has 15 minutes.

Mr. ABOUREZK. I ask unanimous consent that the manager of the bill be allowed 5 more minutes.

Mr. HUMPHREY. Can we take it that we have been discussing this matter——

The PRESIDING OFFICER. Is the Senator from South Dakota yielding his time?

Mr. ABOUREZK. I ask unanimous consent that the Senator be given 5 additional minutes.

Mr. HUMPHREY. I do not want to take up the time of the Senate.

Mr. ABOUREZK. Senator JAVITS has something to say.

Mr. HUMPHREY. It was my understanding that my unanimous-consent request was for the purpose of having the time divided when I offered the amendment. The preliminary discussion with respect to the amendment was taking place between the Senator from South Dakota and the Senator from Minnesota. I know there were 30 minutes on the amendment, and I said let the time run on the amendment.

The PRESIDING OFFICER. It ran on the amendment. As I understand it, the Senator did not ask that it be immediately divided.

Mr. HUMPHREY. That was surely the intent. After all, we have been two people discussing the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Is there objection to what?

The PRESIDING OFFICER. To the time being equally divided, the earlier discussion being equally divided, between the sides.

Mr. ABOUREZK. Yes, I object because the Senator from Minnesota used a lot more time than I did.

Mr. HUMPHREY. Mr. President, I yield some time from the time on the joint resolution to the Senator from New York.

Mr. JAVITS. Mr. President, that is not necessary. Senator ABOUREZK has just given 5 minutes.

Mr. HUMPHREY. No, I object to additional time.

The PRESIDING OFFICER. Objection is heard to additional time.

Mr. ABOUREZK. I yield how much time, 2 minutes, to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is yielded 2 minutes.

Mr. JAVITS. Mr. President, this is really a technical proposition which I would like to explain because it involves the war powers resolution with which I have had a good deal to do, as everyone knows.

The war powers resolution calls for notice to Congress if the President introduces troops into a situation where there are hostilities in operation or where they are clearly indicated, within—the important word is "within"—within 60 days after the submission of that notice the Congress may act in order to require him to pull out the troops. The 60 days, however, is the aggregate time in which they may remain where they are without congressional action.

So that in the absence of congressional action he loses all authority at the end of 60 days. But we may curtail that at any moment.

What Representative Eckhardt is doing is, notwithstanding the self-cancelling element which is contained in the resolution before us, to wit, that they shall be pulled out the moment there is an outbreak of hostilities, is to simply abort that 60-day period whether we act or not, and to say in the law that he may not even introduce them in this particular situation.

Mr. ABOUREZK. May I just interrupt the Senator from New York? The only way I read the Eckhardt amendment is to read it as saying that the President is not granted any additional authority beyond what he has now in the War Powers Act or any other act. Am I correct in reading it that way?

The PRESIDING OFFICER. The Senator from New York's allotted 2 minutes have expired.

Mr. ABOUREZK. The Senator can use my time in this period.

Mr. JAVITS. I thank the Senator.

I think 1 minute is all I would need. Eckhardt says this authority is authority he would not have had in the absence of this joint resolution. He does not have any such authority.

Mr. ABOUREZK. He has authority to introduce U.S. troops.

Mr. JAVITS. He has authority to introduce U.S. troops as commander-in-chief, but we have authority to immediately cancel it out.

Mr. ABOUREZK. That is what I was trying to discuss. Does he have authority to introduce U.S. troops in Sinai without this Sinai resolution, if he deemed it necessary?

Mr. JAVITS. In the absence of this resolution?

Mr. ABOUREZK. Yes.

Mr. JAVITS. Really, I do not think that there is anything in the Sinai resolution which would give him that authority.

Mr. ABOUREZK. This is a very important point. If the Sinai resolution were not in existence and the President felt a necessity to send U.S. troops into the Sinai today, does he have that authority under the War Powers Act?

Mr. JAVITS. I do not believe he would have authority. I must say this is one of the difficulties of the war powers resolution. Will the Senator consult section 2 (c)? If the Senator does not have it before him, I will read it.

(c) The constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, are exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.

What we sought to do there was to spell out the only circumstances under which the President can act under section 4(a), which is the operative section.

The Senator will notice that in sections 4(b) and 4(c) there are other cases in which the President can move the forces as Commander in Chief, in which case he is supposed to give us notice. But the operative part of the War Powers Resolution requiring him to pull out only relates to the situation where he introduces troops into hostilities or where hostilities are imminent. That we sought to limit by this declaration of what is his constitutional power.

It is not as strong as the Senate bill on the war powers which we had to compromise with the House, but it is the best we could do. That is the fundamental effect. I say definitively that in the absence of a declaration of war, specific statutory authorization, or an attack upon the United States or its armed forces, he does not have, in my judgment, authority to introduce American troops into hostilities or into a situation in which hostilities are imminent, without the consent of the Congress.

Mr. ABOUREZK. Would he have authority to introduce American troops to protect American technicians who would be stationed in the Sinai? Let me give a "for instance." Let us say 20 of our tech-

nicians were taken hostage by some guerrilla group or terrorist group and their death was imminent. Say it was a month before the election next year. Would the President, under the War Powers Act, have the authority to introduce U.S. troops to try to save those people?

Mr. JAVITS. That is a big dispute between us and the President. He asserted that authority in respect to the *Mayaguez* and at the same time he gave us notice that he was doing it. The President construes his constitutional powers, that is, this President—every President can have a different view—this President construes his constitutional powers to include the protection of Americans. We did not include it in section 2(c) of the war powers resolution.

Mr. GRIFFIN. Will the Senator yield to me for a brief comment on the question?

Mr. ABOUREZK. Yes.

Mr. GRIFFIN. I would just like to register my view that if the President would have such authority, it would not be by virtue of the Sinai resolution, which we are about to adopt. It would be by virtue of the Constitution, which the amendment of the Senator cannot alter or modify.

Mr. JAVITS. What Senator GRIFFIN said is absolutely right. May I point out that we have civilians now with the United Nations observer forces. It would apply to them as well. So there is nothing that this resolution makes or unmakes in that regard.

Mr. ABOUREZK. What I am trying to get at is with regard to the Sinai Agreement. Does the President of the United States have the authority under the resolution as well as the War Powers Act to introduce U.S. troops to save Americans?

Mr. JAVITS. My answer to that is no, not under this resolution. It is not under the War Powers Act. It is what he claims to be his constitutional authority.

Mr. ABOUREZK. The Constitution only provides that the President can defend the United States, and any other activities have to be undertaken pursuant to a war declared by Congress. That is all the Constitution says, I say in response to the Senator from Michigan and the Senator from New York.

Mr. JAVITS. The Constitution says no such thing. The Constitution makes him Commander in Chief. That is all it says. That is a very different thing from what the Senator said. That gives him a very twilight zone set of powers. I could write a book on the subject to justify the war powers resolution. The war powers resolution does a lot. It is landmark legislation. But it does not settle this question of constitutional power which remains in controversy between the President and the Congress as to what he can do to rescue Americans. We did not include that in the war powers and it is in no way added to or subtracted from by this resolution. He can do it for any commercial attaché or any businessman in any country in the world, if he asserts that power, and he does.

Mr. ABOUREZK. I understand the statement of the Senator now. He does not believe that the War Powers Act gives the President that authority to go in and rescue Americans if they are in danger.

Mr. JAVITS. It does not.

Mr. ABOUREZK. After the *Mayaguez* incident I recall the speech the Senator made on the floor of the Senate, that he thought the War Powers Act worked very well in that instance. What is the difference between the *Mayaguez* and the situation I just propounded?

Mr. JAVITS. I do not recall the exact terms of the speech I made. My assistant, Mr. Lakeland, tells me that it referred to the three instances, that is, the two evacuations, one from Cambodia and one from Vietnam, and the *Mayaguez*. But in all of these cases, the President did immediately report and make himself amenable to the authority of the Congress to cause him to stop doing anything he was doing. But it is a fact that this resolution and the War Powers resolution cannot, obviously, make any change in the President's Presidential power. If he claims a power, we would have to contest it. Upon occasion he may do that. But this Sinai thing does not make or break that particular argument.

Mr. ABOUREZK. It does, if I might just state this to my colleague, change things in view of the fact that we are placing, under this resolution, 200 American civilians, former CIA men or whoever they will be, 200 American Government employees, in the front lines in the Middle East war. That is where it changes it.

Mr. JAVITS. May I state to my colleague there are people in the front lines in Portugal, there are Americans in the front lines in Angola, and there will be Americans in the front lines of almost any other struggle waged in the world because we are a people who have a lot of responsibility and a lot of authority. We are everywhere. This does not make that or break it. It does not create a new situation.

Mr. ABOUREZK. It creates a new situation in that the involvement we have had in the Middle East conflict has been, so far, only providing military and monetary support to Israel. What I would like to try to prevent is that kind of emotional involvement on the part of this country, this Congress and this President from escalating into a shooting war or a nuclear war on the part of the United States. I think it is an extremely important point that is being too casually treated by the Foreign Relations Committee and by some Members of this Senate. I think it is essential, it is absolutely essential, that we understand the risk of involvement, and it is absolutely essential that we try to curtail the risk of that involvement as much as possible. That is why I believe that the amendment that Congressman ECKHARDT succeeded in attaching to the House version does nothing to protect America's deeper involvement in the Middle East conflict.

Mr. JAVITS. Mr. President, will the Senator yield to me for one observation?

Mr. ABOUREZK. I yield.

Mr. JAVITS. Let us remember that the Senator has in this resolution a provision by which, by concurrent resolution, we can immediately pull out the 200. We cannot get very deeply involved with that.

Under the war powers resolution, we can terminate the President's authority in a much shorter time than 60 days, again by passing a concurrent resolution.

So I think the controls remain effective, and that is all human minds can encompass.

What the President may claim as his constitutional authority we can always challenge, but we cannot prevent him, by this or any other resolution, from acting.

Mr. ABOUREZK. Mr. President, we have already lost 41 American personnel in the *Mayaguez* operation. We might have been fortunate, in the respect that it could keep us out of future conflicts; but what the President did was notify Congress in some kind of backhanded way that he was going to do what he did. We lost the lives of 41 Americans, I believe uselessly, although there were shouts of American approval of what he did.

Knowing what the President is capable of doing by putting 200 American technicians into Sinai, what the Senator is stating we could do would not work very well if they were taken hostage. If they were taken hostage, what is he going to do, withdraw them? He has got to go in with a gun and withdraw them; and if he is going to take a gun in, he has to send the Marines in. And when he does that, the potential is there for major U.S. involvement.

When that happens, I am not going to stand on this floor and shout approval, nor would I say "I told you so." I would feel very badly about it.

Mr. GRIFFIN. Mr. President, will the Senator yield for an observation?

Mr. ABOUREZK. One minute.

Mr. GRIFFIN. It seems to me, with all due respect, that the Senator from South Dakota is stating his reasons for being against the resolution, which I can respect. There are some risks involved. I think they are overstated, and are much less than people would have us believe, but there are some risks involved.

But if the President has authority under the Constitution to use armed forces to protect the rights of Americans abroad, and I, for one, am glad he does have that authority, then no amendment that the Senator from South Dakota can dream up will affect or change that constitutional authority of the President of the United States. I assume that even if such amendment were adopted, the Senator from South Dakota, realizing his amendment could not amend the Constitution, would still not be for the resolution. I do not know if that is the case; perhaps the Senator from South Dakota would comment.

The PRESIDING OFFICER. All time for debate on the amendment has expired. The question is on agreeing——

Mr. ABOUREZK. Mr. President, I send to the desk an amendment to the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment to the amendment by Mr. HUMPHREY, as follows:

At the end of the resolution, add the following new section:

The PRESIDING OFFICER. As worded, the amendment is not to the amendment, but to the resolution, and would not be in order.

Mr. ABOUREZK. Will the Chair state that again?

The PRESIDING OFFICER. As the amendment was sent to the desk, it was not an amendment to the Humphrey amendment. It was an amendment to new matter at the end of the resolution, and thus would not be in order.

Mr. ABOUREZK. I offer it as a substitute for the Humphrey amendment.

The PRESIDING OFFICER. Will the Senator send his substitute amendment to the desk?

Mr. ABOUREZK. Yes.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment to the Humphrey amendment in the nature of a substitute as follows:

In lieu of the language proposed to be inserted, insert the following:

Notwithstanding any provision of the War Powers Resolution (Pub. L. 93–148, 87 Stat. 555, November 7, 1973) the President or any other officer or employee of the United States Government is expressly prohibited from using any funds or issuing any order to use the United States Armed Forces personnel, or equipment operated by United States military personnel, to protect the civilian personnel assigned to Sinai authorized under section 1 of this resolution.

Mr. HUMPHREY. Mr. President, did the clerk complete the reading?

The PRESIDING OFFICER. Yes.

Mr. ABOUREZK. We have changed it.

Mr. HUMPHREY. I am sorry.

Mr. ABOUREZK. Mr. President, by way of brief response to the Senator from Michigan, I do not know of any place in the Constitution that the President is authorized or permitted to use the U.S. Armed Forces personnel, without a declaration of war, to do anything outside of protecting the United States itself. There is nothing in the Constitution, and I hope we can show it.

Mr. GRIFFIN. Mr. President, may I respond that if that is the case, there is nothing in this resolution that adds anything to the powers the President otherwise has. It is made clear by the language that Mr. ECKHARDT has written in, but it would be so even if that language was not offered by the Senator from South Dakota; so I fail to understand its significance.

Mr. ABOUREZK. The Senator is overlooking the fact that the War Powers Act is now the law of this country.

Mr. GRIFFIN. But it does not give the President any powers he did not already have.

Mr. ABOUREZK. It gives him many powers he did not already have; in fact, too many, I think. It gives him the power to introduce United States troops into the Sinai Desert if he feels it is necessary to protect the American technicians.

Mr. GRIFFIN. I am sorry; I just do not agree with the Senator. I mean the War Powers Act is an attempt to limit the powers the President already had. Whether it affects the Constitution or not is a matter of debate among constitutional scholars; but it does not grant him any powers other than those he already had.

Mr. ABOUREZK. I believe it does. I believe he had no authority to go outside the United States in the absence of a declaration of war, and I believe the War Powers Act gave him authority to do that.

Mr. President, in regard to the substitute I have offered to the Humphrey amendment, to my mind it is the only way to prevent another *Mayaguez* situation from happening.

If Members of the Senate want to allow the President of the United States, for whatever purpose he thinks necessary, to introduce United States troops for the purpose of confrontation in the Middle East, if we want that to happen—and I cannot believe anyone in this body wants it to happen—but if Senators want it to happen, they should support the Humphrey amendment. But if Senators want to prevent the introduction of United States troops under any pretext or excuse whatever, they should support the Abourezk amendment, which absolutely and plainly prohibits it, notwithstanding the War Powers Act or any other provision of law.

I state again, the Constitution does not authorize the President to introduce troops in the absence of a declaration of war.

Everyone here can easily imagine what would happen if 20, 30, or 50 of those American technicians, U.S. Government personnel, hired by the Government, paid by the Government, and representing the U.S. Government in the Middle East conflict, what would happen if some guerrilla force came in and grabbed 40 or 50 of them and held them hostage. The Senator cannot tell me that the President of the United States would not immediately become angry about that, and would not immediately send American military personnel in with planes and guns and whatever else to try to protect those people. There would be an outcry in this country to go in and save our technicians, and he would be hard put to resist it. There would be an outcry in Congress, and most of the people in Congress would probably be on their feet, as they were during the *Mayaguez* incident, demanding it be done.

This is the first step toward that happening. We are going into it voluntarily. The *Mayaguez* incident was a little different: Here was a ship going from one port to another, that was taken over by a Cambodian gunboat following the takeover by the new Cambodian Government. This is totally different; we are sending them there.

Is anyone here so naive enough to believe that he would not go in after them? The President would do it, he would notify us, and then that would be the end of it.

That would be the beginning, in my mind, of a very dangerous potential confrontation. It seems to me that we would want to avoid that.

I reserve the remainder of my time.

Mr. HUMPHREY. Mr. President, I understand there are 15 minutes to a side on the amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. HUMPHREY. Mr. President, first of all the amendment of the Senator from South Dakota is patently unconstitutional because this amendment simply says that the President of the United States is expressly prohibited from using any funds or issuing any order to use the U.S. Armed Forces personnel or equipment operated by U.S. military personnel, to protect the civilian personnel assigned to the Sinai authorized under section 1 of this resolution.

First of all, Mr. President, we cannot go around and select American personnel who are to be protected. If they are American citizens, whether they are in the Sinai or whether they are in Sioux Falls, S. Dak., or whether they are in London, or whether they are down some place in Africa, they are American personnel, they are American citizens, and they are entitled to the protection of the laws of the United States of America and of this Government.

For example, if an American consul general is taken hostage, as they have been, this Government has an obligation to protect that person. How the Government protects them is another matter.

I think it is fair to say that sometimes our Government has not acted precipitately. It has acted with measured response.

But the important thing I think that we ought to keep in mind is the amendment that was offered in the House of Representatives, which was attached to this bill. Its author was of the same mind as the Senator from South Dakota. So he offered the amendment to make sure that this resolution did not give the President any additional authority, and here is what he said:

And I do not believe that we want at this time to write a provision comparable to the Tonkin Bay resolution. I think that is precisely what we are doing if we do not limit this granted authority by the language of the substitute.

He is speaking of the Eckhardt amendment.

So Congressman ECKHARDT offered this amendment, by the way, it was opposed by the chairman of the committee, and yet the House of Representatives, by a vote of 124 to 71, on a standing vote, voted for the Eckhardt amendment.

Frankly, I do not think it is necessary. But in order to make the Senate resolution comply with the House resolution, which I think is essential if we are going to get any action, I have on a procedural motion moved to take the House amendments.

Now comes along the distinguished Senator from South Dakota with his substitute, and what his substitute says is that we are going to rewrite the Constitution by the Abourezk amendment.

It just so happens we cannot do that. It takes a little longer to rewrite the Constitution.

The Senator from South Dakota can say all he wants to about curbing the powers of the President. But Thomas Jef-

ferson knew that he could use the Armed Forces of the United States, and other Presidents have known it.

But what the resolution says, which I think is so important for us, is that this resolution states very categorically that the U.S. civilian personnel assigned to Sinai under such proposals shall be removed immediately in the event of the outbreak of hostilities between Egypt and Israel, or if Congress by concurrent resolution determines that the safety of such personnel, even before hostilities, is jeopardized or the continuation of their role is no longer necessary.

So the Senate Committee on Foreign Relations and the House of Representatives Committee on International Affairs have both determined that in case there is any possibility of jeopardizing their safety they shall be removed; not ought to be, not could be, not may be; the language is a directive: shall immediately be removed.

Mr. President, that removal may require that we at least send in a camel or a donkey owned by the Government of the United States. It may require that they go on in with someone who is a sergeant leading the donkey. More likely, it will require only one thing, that they be promptly removed under guard of the United Nations, or that they be removed in an orderly manner, without any military uses whatsoever, except possibly the use of a helicopter.

The issue here is not these amendments. The issue is, as the Senator from Michigan put it, are we willing to have 200 American civilian technicians in the Sinai? That is a debatable issue.

There are people who feel very strongly that they should not be there. That is a position that can be held with good conscience and with strong feeling.

I happen to think it is a risk worth taking, that those 200 technicians, who are civilians, ought to be there. I think we ought to make it very clear that in case of any trouble they should be removed immediately, that they should not be a cause for war or for hostilities. To the contrary, even if their safety is jeopardized, much less their lives, they can and should be removed.

So that is what the issue is about here.

The Senator from South Dakota just does not want the Sinai resolution. He does not want the 200 personnel, and he is going to move to recommit this resolution. That is all proper. That is his sincere conviction, and he is a very sincere man.

I can only disagree with him on the basis of judgment, surely not on the basis of motivation.

But here is an amendment that says that, even if we have them there, we cannot use any equipment to get them out. In other words, if this Senate should put them there, since the House of Representatives has already acted overwhelmingly to agree—let us assume that the Senate now passes this resolution and we put those 200 men there, the Senator from South Dakota says to let them die if something goes wrong. He says we cannot use any way to get them out.

I do not think that is the way this Government ought to operate. The issue is whether we want them there, if the 200 men are going to be there, then I think what we put in this resolution makes sense, namely, that, if they are jeopardized or if their safety is jeopardized, out; if there are any hostilities between Egypt and Israel, immediately out. And that is what it says.

> The United States civilian personnel shall be removed immediately in the event of outbreak of hostilities.

What better language can we have?

Congressman ECKHARDT comes along and says:

> Look. I want to make sure that this resolution does not give the President any more wiggle room. I want to be sure that the President understands that they are to be gotten out of there immediately. I want to be sure that this resolution does not water down the War Powers Act. I want to be sure that it does not in any way give the President any authority that he does not already have.

There is no one in this body who studies any constitutional law who can say that the President of the United States, as Commander in Chief, does not have some authority to protect the lives of Americans.

I hope so. I hope so. That is what we have consul generals all over the world for. I hope if someone is arrested in the Soviet Union on some trumped-up charge that the President of the United States, through his officers, can go to the Soviet Union and say, "Get that person out of there." I hope that we have not crippled our Government to a point where we are going to sit here supinely or lie here supinely on our backs while people trample on us.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. HUMPHREY. This resolution is not a war resolution. This resolution is a peace resolution. The Abourezk amendment would make it a resolution to leave the American personnel helpless. That resolution, if we adopt Senator ABOUREZK's substitute, simply says:

> Too bad, boys. We got you over there. Something went wrong. Stay. Die.

That is exactly what the Senator from South Dakota is saying. He is saying point-blank that we cannot use even the equipment, he is saying we cannot use a Jeep, he is saying we cannot use a helicopter, and he is saying we cannot use a plane to get those people out in case their lives are jeopardized.

If the Senator wants to say they ought not to go there, and that is what he is really for and that is his position, that is the one we ought to be voting on and not be voting on all this little trickle of stuff we have here.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield on the time of the Senator from South Dakota.

Mr. ABOUREZK. That is fine.

I suppose that the reason I offered this amendment was to elicit a confession from the Senator from Minnesota that indeed we will go in and try to protect those Americans if something should happen to them. The Senator has just admitted it, and I am very grateful for that admission. I knew that was what the case was in the first place, and I am glad that this particular substitute amendment brought it out.

Second, the Senator talked about an embassy official going to the Russian authorities and demanding the release of an American. That is a great comparison, because I do not know of a time in our recent history when we have gone to Russia with an army and demanded that something be done.

We have only done that recently to countries that we thought could not fight back too much. We did it to the Cambodians recently. We went in with full armed forces. But we do not do that with Russia. That is a very bad analogy to use, I think. We certainly do it in the Middle East, because if the Senator surveys all the countries over there, we probably could whip them all. That means that that is the easiest way for us to enter with our military forces in the Middle East; because after we had looked it over and decided that we could whip them with very little risk to us, we would do it.

That is exactly the point of this amendment—that American Government employees are going to be put into a situation where American Armed Forces personnel will become involved and will involve this country and eventually involve us against Russia and a potential nuclear confrontation. That is exactly what it is going to be.

Mr. HUMPHREY. On my time, I say to the Senator from South Dakota that his amendment does not alter the powers of the President of the United States. That is No. 1.

No. 2, so far as the protection of the lives of the American people is concerned, the Senator can have adopted all the amendments he wishes, from now to doomsday, and fill up the Sears, Roebuck catalog with this language, and that is not going to change the powers of the President of the United States.

This resolution, on which, hopefully, we will vote by Friday, says specifically that if there is any danger to these personnel, they should be removed immediately. So let us not read something in here that is not there.

No one is denying that there is some risk. The greater risk is the outbreak of hostilities. If the United States wanted war in the Middle East, it has had plenty of provocation. This Government is not looking for that kind of tragedy. The Senator from South Dakota knows it and I know it.

These are civilians. These are personnel who, under this resolution, will be removed immediately; and, by a concurrent resolution of Congress, they can be taken out at any time, or if their safety seems to be jeopardized at any time.

If their safety is jeopardized and if they have to be removed immediately, the Senator from South Dakota apparently is going to depend on their walking out. I do not know who is going to protect them. He says that no equipment——

Mr. ABOUREZK. Will the Senator answer one question for me?

The Senator has established it fairly well by saying a number of times that they can be removed in the event there is some kind of danger to them.

Mr. HUMPHREY. That is right.

Mr. ABOUREZK. Will the Senator ex-

plain to me how they would be removed if they were captured and held hostage by some hostile forces?

Mr. HUMPHREY. The first thing is that it says that immediately upon the outbreak of hostilities, they shall be removed immediately. They can be removed by the United Nations forces. We are a member of the United Nations. They could be removed by negotiation. They possibly would have to be extricated by U.S. helicopter. That is a possibility.

I am not one to underestimate that there are some dangers in a matter of this kind. This is not a matter of going to a Methodist Sunday school picnic, with chocolate ice cream and lollipops. That is not the kind of world in which we live.

There are some risks in doing anything, and that is what the debate is all about.

Mr. JAVITS. Mr. President, will the Senator yield me 2 minutes?

Mr. HUMPHREY. I yield.

Mr. JAVITS. One thing has to be made very clear, and that is as to the power the President asserts. Let us remember that the distinguished manager of the bill was Vice President of the United States, and he is speaking in terms of presidential power. I do not speak in those terms. I think it is a very twilight zone, a doubtful question. But everybody concedes that Congress can make him pull out, whatever he is proposing to do.

That is the critical point in the war powers resolution, and that is what Representative ECKHARDT wanted to leave absolutely unimpaired. Whether or not the President can get by with a rescue as he did with the *Mayaguez,* or we will stop him if he tries to be protracted about it, is a matter much better left to the situation when it occurs, because we cannot resolve the question of the constitutional power.

Therefore, Senator HUMPHREY is absolutely right about the Abourezk amendment. The Senator from South Dakota does try to resolve the question of constitutional power. We cannot, and hence we derogate from our own authority if we try it; because it will just be wastepaper. We are better off leaving the law exactly as it is, and that is what Representative ECKHARDT'S amendment sought. It was unnecessary. He just wanted to take the precaution of leaving the law as it is.

So I really believe that the Humphrey argument is right on that ground, whether one takes his position on Presidential power or mine. That is strictly an argument neither of us can make or unmake by the record on this measure.

Mr. ABOUREZK. Mr. President, I should like to get the yeas and nays on this amendment, but I do not see a sufficient number of Senators in the Chamber at this time. However, I wish to let the manager of the bill know of my intention.

Mr. HUMPHREY. Mr. President, I am going to move to table the amendment which has been offered by the Senator from South Dakota.

The ACTING PRESIDENT pro tempore. The time of the Senator from Minnesota has expired.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time to be charged to both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HUMPHREY. Mr. President, I am not going to move to table. We will vote on the substance of the amendment.

Mr. ABOUREZK. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from South Dakota. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I also announce that the Senator from Michigan (Mr. HART) is absent because of illness.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nevada (Mr. LAXALT) is necessarily absent.

The result was announced—yeas 16, nays 75, as follows:

[Rollcall Vote No. 435 Leg.]

YEAS—16

Abourezk	Helms	Muskie
Burdick	Hollings	Nelson
Clark	Magnuson	Proxmire
Cranston	Mansfield	Talmadge
Hatfield	McClure	
Hathaway	McGovern	

NAYS—75

Allen	Fong	Nunn
Baker	Ford	Packwood
Bartlett	Garn	Pastore
Beall	Glenn	Pearson
Bellmon	Goldwater	Pell
Bentsen	Griffin	Percy
Biden	Hansen	Ribicoff
Brock	Hart, Gary W.	Roth
Brooke	Hartke	Schweiker
Buckley	Haskell	Scott, Hugh
Bumpers	Hruska	Scott, William L.
Byrd, Harry F., Jr.	Huddleston	Stafford
Byrd, Robert C.	Humphrey	Stennis
Cannon	Jackson	Stevens
Case	Javits	Stevenson
Chiles	Johnston	Stone
Church	Kennedy	Symington
Culver	Leahy	Taft
Curtis	Long	Thurmond
Dole	Mathias	Tower
Domenici	McClellan	Tunney
Durkin	McIntyre	Weicker
Eagleton	Mondale	Williams
Eastland	Montoya	Young
Fannin	Morgan	
	Moss	

NOT VOTING—9

Bayh	Inouye	Metcalf
Gravel	Laxalt	Randolph
Hart, Philip A.	McGee	Sparkman

So Mr. ABOUREZK'S amendment in the nature of a substitute for Mr. HUMPHREY'S amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CASE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUMPHREY and Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. Mr. President, is the pending amendment the one that I had offered known as the Eckhardt amendment from the House that would bring the Senate bill in conformity with this?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota. Time for debate has expired.

The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, just for a few seconds, I suggest the absence of a quorum—just for a very short time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it so so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that Dr. Dorothy Fosdick and Mr. Richard Pearle of my staff be granted privilege of the floor in connection with the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island.

Mr. PASTORE. Mr. President, while we are waiting for some agreement to be reached, I merely want to say that I voted "no" on the last amendment, but so that my vote will not be misunderstood, I voted "no" and had I been on the floor—I was at a meeting—I would have moved to lay that on the table because that amendment had no place at this time in this matter.

There has been no commitment by the United States to use any troops. I want that clearly understood. As I understand it, the commitment is only as to civilians, which are about 200 in number, and this idea that we had to vote on this particular amendment where someone could construe that because one voted against it he is for the commitment of American troops in that part of the world, we understand the United States is not involved. It is no agreement, and there is no intention to do it.

I want the record to show it so that if anyone should ask me, at least they would have my explanation.

The PRESIDING OFFICER. The question is on the——

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Might I say, just in response——

The PRESIDING OFFICER. Debate is not in order.

Mr. ABOUREZK. Mr. President, I want to take time off the general time.

The PRESIDING OFFICER. Only the two Senators in control of time on the bill can yield time.

Mr. ABOUREZK. I am yielding myself the time.

Mr. HUMPHREY. Mr. President, what is the ruling?

Mr. ABOUREZK. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from South Dakota has the floor.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. On whose time is the Senator speaking?

The PRESIDING OFFICER. The Senator has 4 hours.

Mr. HUMPHREY. That is all I wanted to know.

The PRESIDING OFFICER. The Chair understands the Senator from South Dakota is taking his time.

Mr. ABOUREZK. That is right. I want to respond briefly to the Senator from Rhode Island.

Mr. TUNNEY. Will the Senator yield for a unanimous-consent request?

Mr. ABOUREZK. To ask a question?

Mr. TUNNEY. No; for a unanimous-consent request.

Mr. ABOUREZK. Yes.

Mr. TUNNEY. Mr. President, I ask unanimous consent that Mark Moran of my staff be granted privileges of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, will the Senator yield for a similar request?

Mr. ABOUREZK. Yes.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Frank DuBois of my staff be granted privilege of the floor during consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, while most Members are in the Chamber.

The PRESIDING OFFICER. May we have order in the Chamber?

Will Senators please clear the aisles?

The Chair would appreciate it if Senators wishing to converse would retire to the cloakroom.

The Senator from South Dakota has the floor and he has a right to be heard.

The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, while many of the Members are now present that were not in the Chamber during the debate on this and the Humphrey amendment, let me try to clarify exactly what I proposed to do. That is, to prevent the President from having an excuse to introduce U.S. troops into the Middle East conflict.

I am sorry that more Members were not present during the debate, but if they were here they would have learned from the Senator from Minnesota that, indeed, there would be occasions that we might have to introduce U.S. troops to protect the technicians we are putting in. We have a situation where our actions could be a potential for a nuclear confrontation with the Soviet Union.

Now, had he been here and other Members been here, they would have learned that there was a great deal of concern on the part of some Members that voting for the substitute that I offered would prevent the use of American helicopters, for example, just to evacuate American technicians.

At this time Senator McCLURE is drafting a modification, which I understand he is ready to introduce, that would provide for that action to be taken, but it would still prevent the use of American troops to engage in any military activities, and that would allow American helicopters to go in and evacuate our people.

So I yield now to the Senator from Idaho.

Mr. McCLURE. Mr. President, I thank the Senator for yielding.

The amendment which I am preparing has been sent up and copies made so that others may have copies to see the language.

I think the Senator from South Dakota in the amendment which he offered fell into the same position that occurred in the other body yesterday in the debate on a similar matter, and that was the question of whether or not the personnel and equipment of the U.S. military forces could be used to effect a removal of the observers in nonhostile conditions.

I am certain there are Members of this body who voted against the Abourezk substitute simply because they felt that we ought to be able to send helicopters in from the U.S. Navy or use military trucks to remove these people in a condition where there was no fighting; that they could get them out quicker, and go ahead and get them out.

The amendment I am drafting seeks to answer that particular question by distinguishing between the peaceful use of military equipment and personnel to effect the removal of these observers, or the technicians, to limit the use of the equipment and personnel to noncombat operations.

I think the Senator from South Dakota has raised a point which must be confronted by the Senate before we vote on passage of this resolution, and that is the simple fact that the presence of 200 nonmilitary American civilians in that particular area can, indeed, involve us in hostile action. And if we are going to involve ourselves in that kind of confrontation between forces, either side of which is our enemy at the present time, then the Senate ought to know that, ought to make that decision now, ought to vote upon the conditions under which we expect that to be done.

I am told that the Constitution, for instance, prohibits any interference with the use of—Mr. President, I wonder if we might have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend until there is order in the Senate. Senators will take their seats. They will suspend conversations. Staff will please remain quiet. The Senate will be in order. The Senate is not in order. The Senate will be in order.

The Senator from Idaho.

Mr. McCLURE. I thank the Chair.

Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

In lieu of the language proposed by the Senator from Minnesota (Mr. HUMPHREY), insert the following:

Notwithstanding any provision of the War Powers Resolution (Pub. L. 93–148, 87 Stat. 555, November 7, 1973) the President or any other officer or employee of the United States Government is expressly prohibited from using any funds or issuing any order to use the United States Armed Forces personnel, or equipment operated by United States Armed Forces personnel in combat at operations for the purpose of protecting or rescuing American personnel assigned to Sinai authorized under section 1 of this resolution."

Mr. McCLURE. Mr. President, I think it should be understood that at this point, if the Senator from South Dakota will yield to me, the time that is consumed on this amendment would be charged to the time allotted to me. Is that satisfactory?

Mr. ABOUREZK. Yes.

The PRESIDING OFFICER. The Senator has 15 minutes.

Mr. McCLURE. I think under the unanimous-consent agreement I have more time than that.

Mr. DOLE. Will the Senator yield for a question?

The PRESIDING OFFICER. Is this the amendment on which the Senator from Idaho wishes to use the 1 hour?

Mr. DOLE. Yes, it is.

Mr. BEALL. Will the Senator yield for a unanimous-consent request?

Mr. McCLURE. I yield.

Mr. BEALL. I ask unanimous consent that David Rust and Charles Morrison of the staff of Senator ROTH be granted the privileges of the floor during the debate on this whole matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. I ask unanimous consent that Michael Hathaway of my staff be granted the privilege of the floor during the consideration of this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order. The Senator will suspend until there is order in the Senate. The Senate is not in order. The Senator will suspend until there is order in the Senate.

Mr. JAVITS. Will the Senator yield for a parliamentary inquiry?

Mr. McCLURE. I yield.

Mr. JAVITS. I have a parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Will there be 15 minutes in opposition to this amendment, half of a half hour, even though the Senator is using his own time?

The PRESIDING OFFICER. The Senator from New York is advised there will be 30 minutes in opposition to the amendment.

Mr. FONG. Will the Senator yield for a unanimous-consent request?

Mr. McCLURE. I yield.

Mr. FONG. I ask unanimous consent that my administrative assistant, William Kinaka, be granted the privilege of the floor during the consideration of this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Will the Senator yield for a question?

Mr. McCLURE. I yield for a question.

Mr. DOLE. Let me state that the Senator from Kansas is not yet convinced we should send technicians to this area, but if I understand the import of the amendment, if that in fact happens and there should be hostile action, then the amendment of the Senator from Idaho would preclude any military effort to rescue the technicians. Is that correct?

Mr. McCLURE. If it involved combat operations to do so it would have that effect. If they could get in and get out without hostile action, we could do that.

Mr. DOLE. Who makes that determination?

Mr. McCLURE. The President of the United States.

Mr. DOLE. Let us take the *Mayaguez* incident. They could not be rescued in that kind of an operation?

Mr. McCLURE. That is correct. They could not be rescued in that kind of an operation.

Mr. DOLE. Then what happens? Are they just at the mercy of whoever may be there?

Mr. McCLURE. I think whatever would happen would depend upon the combatants in the area, not upon the forces of the United States in that circumstance.

Mr. DOLE. I do not want to become involved in the Mideast, but I certainly do not want to leave totally unprotected, 200 American technicians, helpless and at the mercy of those who may be engaged in hostile activities. I do not believe there will ever be a time when you could fly in peacefully and pick them up in helicopters or drive in with an army truck or van. Once the hostilities start, they would be in jeopardy. It seems to this Senator that the last thing we want to do is to announce in advance to the countries involved and to the technicians that they might be deserted if anything happens.

Mr. McCLURE. I understand the concern of the Senator from Kansas.

Mr. ABOUREZK. Will the Senator yield?

Mr. McCLURE. I think the time to make the decision and to clearly understand what we are doing is now. The Senator from Kansas may very well be right, that we do not want to be in a position of not sending our Armed Forces in there to get these technicians out. But if we are making that decision, let us say so clearly and say so now. Let us not get ourselves into a trap of not having any options and then wring our hands and say, "We really did not understand that this might occur." Let us face up squarely to the fact that if these technicians go in, we may indeed involve ourselves in sending Armed Forces in to fight a battle to try to get them out, with all the consequences that that might have.

Mr. DOLE. The President has a constitutional duty to protect the lives of Americans. We are not going to alter that duty with this amendment. It just does not seem that under this amendment we give the technician any option if he goes to that area. He would go, as I understand, with the full knowledge that his country will not be there if he is in desperate straits. I do not agree that this is the way we should proceed.

Mr. McCLURE. May I say to the Senator from Kansas a number of years ago we were flying some U–2 airplanes. The U–2 airplanes penetrated the national air space of foreign powers. The pilots of those spy aircraft were notified in advance as a condition of their employment that if, for any reason, they went down behind the frontiers of those foreign countries, they understood, as a condition of their employment, we not only would not try to get them back but we would deny they existed. As I recall, that was the condition of their employment, although in the celebrated Powers case we did not really follow through exactly as we had said we were committed because of political pressures. But that underscores, I believe, the seriousness of the situation. I do not think any Member of this body can say that we are going to really walk away from 200 American technicians stationed in these passes and allow them to be the pawns of a conflict between two other powers when we sent them there. This amendment which I am offering gives the Senate the opportunity to stand foursquare to assist in the event of intervention or to say we will not.

Mr. DOLE. I just have the view that we are, in effect, denying in advance any effort to rescue these men in the event of hostile action. It could be one rifle shot or one raid or whatever. We continue to express our proper concern about the MIA's in Southeast Asia and, on the other hand, the amendment says in effect, "We do not care what happens to 200 Americans in the Middle East. We will make no effort to rescue them if there should be hostile action."

Based on that, I cannot see that the Senator's amendment would add anything. It certainly would not encourage me to volunteer for that duty.

Mr. McCLURE. I was not aware that the Senator from Kansas was going to volunteer in the absence of this amendment.

Mr. DOLE. I did not have it in mind, but it is so attractive that it is almost as easy as being reelected these days.

Mr. McCLURE. I understand the concern of the Senator from Kansas. My purpose is to sharpen the focus of our attention upon the consequences, the expected and likely consequences of our action, and to require the Senate to face up to the consequences of those actions now, not later.

I yield to the Senator from South Dakota.

Mr. ABOUREZK. In reference to Senator DOLE's question, his concern points up and puts in focus exactly what we ought to be looking at so far as sending these technicians there.

I have been saying from the beginning, and that is what my amendment says and what the Senator's modification says, that once we put the technicians in there, despite all the soothing reassurances from the Secretary of State and the President, once they are in there Congress is going to be hard put to complain about sending American troops in to protect them. The Senator from Kansas (Mr. DOLE) just made that remark; and I think that is probably the feeling of a great many Senators. That is why the amendment has been offered, to try to determine whether or not people really realize what they are getting into by sending 200 Americans and putting them in a combat zone, right in the middle of two hostile parties.

I am not a great one at predicting, but I do not think that that agreement, if approved and signed, will last more than a few months. I think it will fall apart within a year, and I think we will find ourselves in the pot the Senator from Kansas thinks we will be in. I think he is correct.

Mr. McCLURE. I thank the Senator. I yield to the Senator from Tennessee.

Mr. BROCK. Mr. President, I can understand the Senator's feeling about the potential dangers in the agreement. I do not object to that at all. But I hope the Senate will soundly and thoroughly defeat the amendment, because I cannot understand the logic of saying we want to take a risk for peace, but we are unwilling to take any risk. That is the essence of what we are debating on this whole resolution.

I appreciate the Senator's concern, but I would point out to him that we have men stationed in I do not know how many countries around the world, and never once have I heard the Senate ask the President to give us a guarantee, nor have we written into a statute a limitation, which would inhibit his opportunity to take whatever action was necessary to defend those personnel.

The PRESIDING OFFICER. Mr. CULVER). The Senate will be in order.

The Senator from Tennessee may proceed.

Mr. BROCK. I grant that there are military personnel—in Germany, Korea, Taiwan, Japan, and throughout Asia, Europe, and Latin America.

But we also have embassy personnel. We have private citizens traveling the world. And it is incumbent on the President of the United States, under the Constitution, to provide for their protection to the extent of his ability. There is no question that this whole process will involve the United States in some additional risks.

The reason I am for the joint resolution is that I think the alternative risk is far, far greater; that to do nothing would be to beg for war, and ultimately the involvement of the United States in that war.

I share the Senator's reluctance. I share his concern. But under no circumstances do I think we can further define the War Powers Act in this specific instance to try to hamper the President. I

think that would be a terribly wrong thing to do, and I hope the Senator, by his amendment, is trying to bring the issue into focus. I know he would not see fit to abandon any of our men, and I know that is not his purpose. But I am concerned with the way the amendment is phrased and presented. I think that might be the interpretation.

Mr. McCLURE. I thank the Senator from Tennessee for his remarks. Let me comment, if I may, for a moment about the dilemma that confronts the Senate as we are walking that fine line that we are asked to draw on this resolution—not on my amendment, but on the joint resolution itself.

I am mindful, as the Senator from Tennessee has expressed it, of the risks of doing nothing; and I am also, as is the Senator from Tennessee, aware of the risks that are involved in the resolution that we have before us. But I do not wish to hear Senators say, sometime later, that if these technicians are involved in the midst of a shooting war, a conflict, and the President of the United States is called upon to send elements of the armed services of the United States in there to die in that conflict, that they did not know that might happen, that somehow this was something outside of the realm of the possibilities considered, that we did not address ourselves specifically to that problem.

I think there is only one way to confront that problem, and that is to do it in the debate on the floor of the Senate today. That is the purpose of my amendment, to draw attention and to focus very narrowly and precisely on that specific question, because I agree with the Senator from Tennessee, the Senator from Kansas, and others who have spoken and will speak, that the U.S. Government has an obligation to any of its citizens anywhere in the world, that it has a particular obligation to those that we have sent overseas for some specific mission on behalf of the United States, and it would be the normal expectation in any of those circumstances that we are going to use whatever legitimate power we can focus to prevent any damage or loss of life to those personnel.

If we are going to vary from that basic presumption, now is the time to do it, not sometime later. Now is the time. I do not want us proceeding on some vague presumption of our commitment to these people. If we are going to have a commitment, let us spell it out precisely. If we are unwilling to have that commitment at some time in the future, let us say so now.

Mr. BROCK. I appreciate the Senator's statement. If I may, I ask him to yield for 1 additional minute.

Mr. McCLURE. I yield.

Mr. BROCK. I entered into the debate, not because I had any concern about the Senator from Idaho. I think he knows I have as much respect for him as for any Member of this body, and I recognize his interest in our American personnel wherever they may be.

I think the Senator's point is well taken, and for myself I want it to be absolutely categorical. I want the record to show that I believe the President not only can, but must take whatever action is necessary to protect any American wherever he happens to be in the world. I think that is a part of this process, this whole debate. The Senator has raised a valid point.

As for myself, the Senator and I are in disagreement on the action, and I, therefore, am sorry that I cannot support the Senator, but nevertheless I think he has the obligation to raise the issue. I think too often in the past we have turned our backs on our people and walked away from them. We must not let that happen. But I think we should walk into this agreement with our eyes wide open, recognizing that we are also declaring ourselves willing to take some risk in the interest of ultimate and lasting peace. That is why I support the joint resolution.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. McCLURE. I yield to the Senator from New York.

Mr. BUCKLEY. I wish to underscore what I think are the very sound observations made by the Senator from Tennessee.

I, too, think the action taken by the Senator from Idaho is entirely appropriate. This is a serious matter, and recognized as such by this body. We should also understand that the amendment that is offered, in order to focus our attention on the possible consequences of the approval of the joint resolution, does not in any way affect the normal obligations of an American President and of the American Nation to protect the lives of American citizens legitimately situated anywhere on the globe. Therefore, a vote against this amendment, in my judgment, does not in any way affect the circumstances or the flavor of the obligations of the United States with respect to 200 volunteer civilian technicians who may find themselves trapped between fighting forces in the Sinai.

This is, as the Senator from Tennessee has stated, a risk. Everything we do in the interest of peace is a risk. Anyone who goes to any embassy anywhere in the world these days is engaged in taking risks, now that terrorism has become commonplace, with no country exempt from the acts of terrorism.

I believe, therefore, that the record should show that the effect of the amendment that is being offered by the Senator from Idaho is purely to focus our attention to the possible consequences.

But a vote on this, if this is rejected, does not in any way add to the moral commitment of the United States to look after its own citizens, wherever they are, if they are in trouble.

Mr. BROCK. Nor would it detract from it.

Mr. BUCKLEY. Nor would it detract from it.

Mr. BROCK. We have this fundamental obligation regardless.

Mr. McCLURE. Mr. President, I say to the Senator from New York and the Senator from Tennessee it would not change the assumed responsibility that we attempt to discharge in every instance, but it would be a specific statement by this Senate that we expect, in this specific instance, to discharge that responsibility in that way.

Mr. BUCKLEY. To that extent it is superfluous, if the Senator would forgive me.

Mr. McCLURE. I say to the Senator from New York if he had done, as I have done for the last 2 days, that is, go back and read the Gulf of Tonkin resolution debate in this body, he would not say it is superfluous, because one cannot read that debate about the very clear understanding, that there were Members of this body who said they were willing to do something, and then when we got into it they were not willing at all.

They seem surprised, and I am not surprised at the comments of the Senator from Tennessee or the Senator from New York. I know how they would have reacted had they been in this body when the Gulf of Tonkin resolution was passed, and I know what kind of commitment they would have been willing to follow through with afterwards.

But one cannot read that debate without coming away with the sick feeling that here we go again with people getting us into something that they are not willing to face up to later. There is page after page, after page, argument after argument after argument, where every one said, "Yes, we are willing." Then when the going got tough where were they?

Mr. DOLE. Mr. President, will the Senator yield?

Mr. McCLURE. I yield to the Senator from Kansas.

Mr. DOLE. It seems to this Senator, as indicated earlier, the basic question is whether or not we send the technicians. Once we have crossed that bridge or made that decision, then there is the President's constitutional responsibility to protect. This Senator is not certain how he will vote on sending technicians, but if they can only be helped or removed under conditions that are not hostile they do not need this amendment. They can take a taxi. They do not need a Government helicopter or truck.

Mr. BROCK. Or take a camel.

Mr. DOLE. They could just call a cab.

If there are hostilities in the area they may need some assistance from U.S. military forces. The President of the United States, whether President Ford, or the Senator from Minnesota (Mr. HUMPHREY), or whoever, would have authority to take the action. But this Senator believes the basic question is do we send the technicians? Once that has been resolved the amendment probably is not necessary.

Mr. McCLURE. I say to the Senator from Kansas that is the basic question. But I think before that question is answered, this Senate should know clearly what may be required of them and be willing to face up to that requirement when, as, and if the time comes.

Mr. DOLE. I agree with the Senator from Idaho on that. I think he is doing a service in bringing this to the Chamber and this body will be doing a service by tabling the amendment.

Mr. McCLURE. Let me just read, if I may, some of the debate from that Gulf of Tonkin resolution because I think it

focuses again on the absolute necessity who votes for the stationing of personnel in the Middle East to be willing to vote for the follow-up actions that may be necessary as an outgrowth of that action.

In the original debate, Senator Fulbright was one of the two principal floor managers in behalf of the Gulf of Tonkin resolution, and this appears on page 18399 of the RECORD on August 6, 1964. I will delete some of the language that has pertinence only to the Southeast Asia situation, but I think it still applies here, and it does not distort the meaning.

> The action taken by the United States . . . must be understood both in terms of the immediate situation and in terms of the broader pattern of . . . activities in Southeast Asia over the past 10 years.

A little later in the same debate, Senator Brewster said. His question was:

> . . . whether there is anything in the resolution which would authorize or recommend or approve the landing of large American armies in Vietnam or in China.

Senator Fulbright responded:

> . . . the language of the resolution would not prevent it.

On the next page in that debate Senator Fulbright said:

> That is a further responsibility that we undertook in aligning ourselves with other countries in trying to bring peace and stability into this area.

At another point the Senator from Wisconsin (Mr. NELSON) made this statement:

> Am I to understand that it is the sense of Congress that we are saying to the executive branch if it becomes necessary to prevent further aggression we agree now in advance that you may land as many divisions as deemed necessary and engage in a direct military assault on North Vietnam if it becomes the judgment of the executive, the commander in chief, that this is the only way to prevent further aggression?

The answer by Senator Fulbright was in the affirmative. It did have that implication.

We go on to a further statement by Senator Fulbright in response to further questions from Senator NELSON. This appears on page 18407.

> But in all frankness I cannot say to the Senator that I think the joint resolution would in any way be a deterrent, a prohibition, a limitation, or an expansion of the President's power to use the Armed Forces in a different way or more extensively than he is now using them.

But it became a springboard for the action which President Johnson took in the spring of 1965 in ordering a massive buildup of our commitment and the troops in South Vietnam.

Statement is made by my senior colleague from Idaho in the same colloquy at another point in which he said:

> There is a time to question the route of the flag, and there is a time to rally around it, lest it be routed. This is the time for the latter course.

What will Members of this body say when, as, and if out technicians are involved except to reaffirm what my senior colleague from Idaho said at the time the torpedo boats attacked U.S. naval forces in the Gulf of Tonkin, but again to repeat the language that he uttered on August 6, 1964:

> There is a time to question the route of the flag, and there is a time to rally around it, lest it be routed. This is the time for the latter course.

I think that the course of conduct that we are involved in here today must necessarily draw parallels that we are injecting ourselves into a situation where we are not now personally physically involved, and that, if our personnel are threatened, damaged, or harmed by the outbreak of hostilities, we will be called upon to use force to protect them.

The Senator from Tennessee says he is ready to do that. The Senator from New York says that is U.S. policy generally. The Senator from Kansas says he is ready to do that.

But are all of the other 96 Senators in this body ready to do that? Will all of those who vote for this resolution be ready to do that? Will they, when that time comes, reaffirm as many did on those stirring 2 days of debate on Auguest 6 and 7, 1964, say:

> We are helpless now because of a course of events. We have been involved in Southeast Asia for 10 years and now we have been attacked. We must fight back.

Mr. BUCKLEY and Mr. BROCK addressed the Chair.

Mr. McCLURE. I will yield to the Senator from New York.

Mr. BUCKLEY. I thank the Senator from Idaho.

I just think the record should reflect a very important distinction between the current situation, the current proposal, and the circumstances at the time of the Gulf of Tonkin resolution.

We were partisans, we were parties before that resolution. Under President Kennedy, we had in effect transformed our normal advisory functions into a group of men—our military—who were actively advising and instructing the armed forces of the South Vietnamese in a military action against the Communist forces. We were, in the words quoted by the Senator from Idaho, alined with other nations in a common endeavor.

What we are speaking about now is not intruding civilians or any other American personnel on one side or the other.

Mr. ABOUREZK. Mr. President, will the Senator yield at that point?

Mr. BUCKLEY. I should like to complete my statement, and then I will be glad to yield.

We are inserting people between two parties, with a specific function. There may be an outbreak of conflict. We do not know from which direction it might come.

We are talking purely of limiting or permitting the normal rescue function that I believe is the moral obligation of the United States; and if we have to send in troops to retrieve our 200 men, I am sure they will be shooting with great impartiality to the North or to the South. The one mission is to get them out, and there is no residue.

In other words, I do not see how the resolution we are asked to approve in any way is comparable to the Tonkin Gulf resolution, because the only purpose of sending them in would be to get men out and to allow the combatants to follow their normal course.

Mr. McCLURE. I say to the Senator from New York that I understand that that argument has been made very forcefully by a great number of people, and I am certain that the Senator believes it or he would not make it.

There are differences between this situation and the situation in Southeast Asia. The distinction which the Senator has outlined, in which we were a participant on one side, I hope does not exist in the Middle East. I think there is some doubt about the balance of the current memoranda and understandings which cast some doubt as to whether or not that is really correct—that we are unalined in this particular set of agreements.

However, regardless of our present intentions, what is the necessary outgrowth of a course of events? Much of the debate on the Gulf of Tonkin resolution came from people who had questioned our Southeast Asia policy, who, in the Committee on Foreign Relations or on the floor of the Senate or in other public statements, had said that we were overcommitted in Southeast Asia; but they said, in effect, that we were trapped by the course of events into a situation in which we could respond in no other way, except to defend the honor and dignity of the United States by retaliatory action.

We in this body then passed a resolution which even the people who were critics of our involvement in Southeast Asia confessed was a carte blanche delegation of authority to the President of the United States to involve us at whatever level he thought was necessary. That is what I want to avoid as we debate this question of the U.S. policy in the Middle East.

The people on the side of Israel certainly are not our enemies, and it is equally true that the people in the Arab nations are not our enemies. So I might question this balance, but I also question very strongly where this course of conduct will lead inevitably, if there is an outbreak.

The Senator from New York, I am sure, shares my desire that we have an evenhanded policy, that we not aline ourselves with either side.

However, let me ask the Senate this: What happens if one side attacks, regardless of what the provocation may be, regardless of the truth of the matter that may be involved, and we perceive, rightly or wrongly, that one side has attacked and that that one side is responsible for the threat to our personnel? We send in our troops, in response to what we perceive to be the provocation on one side of the question, and some of our civilian personnel and some of the Armed Forces that are sent in to rescue them lose their lives in that operation. Does this leave us in an evenhanded policy? Does this leave us without alinement on either side? Does this leave us uncommitted to a future course of conduct? Or does this not perhaps lend itself to that inexorable chain of events from which we would then lose control of our own future commitments?

Mr. BUCKLEY. Mr. President, I think that this debate is serving to prevent the contingency of which the Senator from Idaho is rightfully concerned. I believe we are underscoring the limits of the mission of the American technicians. We are acknowledging that any time any American, for any reason, goes into any area in which conflict is possible, there are risks and that there might be the necessity to send in American troops to assure their rescue. This is a normal risk. In my judgment, it does not in any way require or even presuppose that this would cause the country or Congress then to wish to initiate hostilities as a result of the incident from which we are rescuing or retracting our personnel.

Mr. McCLURE. In response, I read one more excerpt from that debate, and I do this with no purpose at all in any way embarrassing any of the participants in that debate. I do it only to illustrate what happens and how we lose control of the course of events.

The Senator from Missouri (Mr. SYMINGTON), on page 18412 of the RECORD, had these words to say in that debate:

> If we allow these attacks to proceed without any resistance, the position, the prestige of the United States abroad, that part of the world, very possibly in all other parts of the world, would suffer a serious loss of respect. The free world continues free today because of the physical, economic, and, above all, spiritual strength of the United States.

All I am trying to say is that the events themselves have a way of impelling action which we do not now contemplate but which we should have the wisdom to anticipate.

Mr. BROCK. Mr. President, will the Senator yield?

Mr. McCLURE. I yield to the Senator from Tennessee.

Mr. BROCK. Mr. President, I appreciate what the Senator is trying to do in terms of drawing the issue to focus. But I do wish to make a couple of points with regard to the testimony and the debate that he cites.

I was one of those who was abused by the Gulf of Tonkin resolution. I was in the other body at the time, and I supported it. I think many of us felt a remarkable, patriotic fervor at that time to respond to an attack on the integrity and personnel of the United States. But, in retrospect, I think it is fair to point out that the Gulf on Tonkin resolution was a fraud, it was a sham, and it was a device by which Congress was impelled to take a position far broader than that on which it was premised.

It is important to note that the Gulf of Tonkin resolution had no purpose in legal terms. Because there was no war powers bill and because of the precedents of Korea and other incidents, the President of the United States had power to involve U.S. personnel, without regard to limit. What he was seeking was the support of Congress to justify an intended course of action. That was the situation then. I do not see the parallel today.

I take great pride in the fact that I was a major or original sponsor of the war powers resolution, and I think that is one of the finest things I have been able to do since I have been in Congress, in joining a number of my colleagues in supporting that measure. The war powers bill gives, again, a categorical right of action to the President of the United States; but then it puts a limit on that right and says that he must report to Congress, and ultimately it is the responsibility, under the Constitution, for Congress to decide whether or not this Nation should be involved in war. That is the reason why we wrote that bill, because most of us feel that the Constitution is abundantly clear as to where the responsibility lies.

What the Senator proposes to do in this resolution is adopt a line item amendment to the War Powers Act which says that the war powers law shall apply except in this prescribed geographical area. That, to me, would be an act of insanity, for a legislative body to start legislating line-item amendments to the war powers bill.

Where do we stop then? What we do is denude the War Powers Act of its effect. That act is fundamental to the preservation of the constitutional processes in this Republic of ours.

As I say, I respect the Senator's desire to draw the debate to a focus, but I do not believe that we can possibly support the amendment without, first of all, abrogating our fundamental support of the War Powers Act; and second, the right of our President to send men wherever they may be needed, under whatever circumstances may be the occasion.

Last, I do not think we can abrogate the rights and responsibilities of the Members of this body to the people of this country.

Mr. McCLURE. I understand the Senator's comments and I share his enthusiasm for the passage of the War Powers Act. I voted for it, I supported it, I support its principles now. I am not talking about the limitations which may be legal limitations. I am not talking about the legal commitments which may be taken. I am talking about, at this time, the course of events that make us a prisoner and deprive us of any real legitimate options on future conduct. To show how that happens, let me read again from the RECORD in the Gulf of Tonkin resolution debate. Again, it was my senior colleague from Idaho speaking. This appears on page 18415:

> I am in wholehearted agreement with the emphasis he has given to the peaceful goals we hope to serve, and to the fact that it is not the policy of the United States to extend the war in Southeast Asia.
>
> But, Mr. President, it would not be either candid nor correct to consider this resolution on such narrow grounds.
>
> It is necessary to recognize that our situation today must be viewed within the context of American policy in the Far East; otherwise, our ships would not be in the Gulf of Tonkin, and the serious events of the past few days would not have occurred.

A little later, he says:

> Because who can say that these events are not the natural consequences of the hazards we have assumed by the policy we have adopted in this part of the world. . . .
>
> It is a risk we assumed . . .

All I am asking in this debate today is that we clearly understand what kind of a risk it is we assume. I stand with the Senator from Tennessee in being willing to assume some risk. I am also willing to pay some price. I have spoken at some length at times in the past, asking the great people of Israel to assume the risks of peace rather than a continuation of the risks of war. I am willing to share in those risks if, indeed, they are reasonable risks. But I do not want to get ourselves put into a position where, once the comitment is made, there will be Members of this body who will say, "Oh, I did not mean that; oh, my goodness gracious sakes, this is going too far;" or, "For heaven's sake, how did this happen?"

Let us look for a moment at what we can expect may happen and confront that now with a clear mind and without the fervor of a patriotic, emotional upswelling that seemed to sweep this body on August 6 and 7, 1964. Let us do it at a time when our heads are cool and we are not involved and we are willing, then, to take a look at the kind of involvement we are willing to undertake, and then make that commitment openly and freely, and live with it.

I yield to the Senator from Wisconsin.

Mr. NELSON. Will the Senator yield for a question as well as an observation?

Mr. McCLURE. Surely.

Mr. NELSON. Is the Senator's amendment an unprinted amendment?

Mr. McCLURE. Yes; it is an unprinted amendment.

Mr. NELSON. Are there any copies available?

Mr. McCLURE. I think both the minority and the majority have copies. There may be other copies, also.

Mr. NELSON. I thank the Senator.

If I may be permitted a comment, the distinguished Senator from Tennessee makes the argument, if I understand it correctly, in part, at least, that the amendment of the Senator from Idaho is unnecessary because of the War Powers Act. That is precisely the point that concerns me. The War Powers Act was part of the law of the land at the time of the *Mayaguez* incident. I think it is a fairly reasonable parallel situation respecting the purpose of the amendment of the Senator from Idaho. The President did not give Congress a chance to be consulted in any way under the War Powers Act respecting the *Mayaguez* incident. Of course, as history now shows, it was a disastrous mistake. We moved in with force in a circumstance where force was not necessary and sacrificed the lives of 50 men in order to recover 31, all 31 of whom were safe and would have arrived back in our hands without any intervention at all.

I attacked our Government's action the morning it happened and received all kinds of critical mail. It was a circumstance in which there was an emotional explosion all over the country against the seizure. The Congress and the country were almost unanimous in support of the President's intervention to stop this little country from interfering with our ship and our commerce. We did not know what we were doing; we did not negotiate with that government; and the War Powers Act was totally ineffective.

What is to prevent precisely the same circumstance from arising in the Middle East with the President making the same kind of arbitrary, unilateral decision as in *Mayaguez*, without consulting Congress, to send troops in to rescue our personnel? Nothing is to prevent that.

The War Powers Act did not work in the *Mayaguez* circumstance and I doubt whether it will work here, and I doubt whether Congress would be consulted here. The event would probably be over in 48 hours, as it was with the *Mayaguez*, and we would be faced with a fait accompli, as we were then.

If Congress had been consulted and those of us who opposed what happened in the *Mayaguez* incident had had a chance to debate it, our men would all have been back safe, we would not have violated the territorial integrity of Thailand, and we would not have killed, unnecessarily, 50 of our own people in that unnecessary, dramatic intervention by the President. The same principle applies here.

The argument was also made by several here, including the Senator from Tennessee, that we always have the right to protect American personnel; the President can intervene to do that. Well, that may be so, and it may be an arguable question from a constitutional standpoint. But let us assume it is so. This circumstance, again, is not parallel. It is not a case of our Government warning American citizens in advance to get out of a country where hostilities may be in prospect. It is a case where we are sending in American personnel.

Then, once we send them in, the argument is made that if they get into trouble, the President has the constitutional authority ot make a military intervention to rescue the people that we put in. That is quite different from the circumstances where we send in our ships to get people out of a potentially dangerous situation in some foreign country.

Mr. McCLURE. Mr. President, could I be informed as to how much I have remaining?

The PRESIDING OFFICER. Nine minutes remaining.

Mr. McCLURE. I say to the Senator from Wisconsin, I do not like to interrupt him, but I think I had better reserve the remainder of my time so that I can better respond to the opponents of the amendment.

Mr. NELSON. Mr. President, may I ask what the time situation is.

Mr. CASE. It is too complicated.

The PRESIDING OFFICER. The Senator from Idaho has 9 minutes; the Senator from New Jersey has 30.

Mr. CASE. Mr. President, I think it is important for this Senator, Senator NELSON, to have some time from other allotments, if anybody wants to give it to him.

Mr. CLARK. We are certainly prepared to give the Senator whatever time the Senator thinks necessary on the bill.

Mr. MANSFIELD. I would like 15 minutes on the bill, too, after the distinguished Senator from Wisconsin.

Mr. NELSON. May I have 15 minutes?

The PRESIDING OFFICER. The Senator from Delaware and the Senator from New Jersey have time on the bill. The Senator from New Jersey has 43 minutes and the Senator from Delaware 57 minutes.

Mr. CASE. I was talking about several hours available to several Members by unanimous consent.

Mr. MANSFIELD. This is part of the time.

Mr. CLARK. Speaking for the Senator from Delaware, who controls the time on this side, our side has 57 minutes remaining on the bill in its entirety, so we will——

The PRESIDING OFFICER. The Chair might clarify this, if the Senator will suspend for just a moment here. Under the order, Senator ABOUREZK has 4 hours, Senator BIDEN 1 hour, Senator BYRD of Virginia 1 hour, Senator HELMS 30 minutes, Senator MCCLURE 30 minutes, and Senator SCOTT of Virginia 1 hour. That is in addition to those times mentioned earlier, so there are several sources.

Mr. CLARK. Yes.

Mr. NELSON. Does the Senator from South Dakota, Mr. President, have ample time?

The PRESIDING OFFICER. The Senator from Iowa, acting on behalf of the Senator from Delaware.

Mr. ABOUREZK. Yes, that is what I stated.

Mr. MANSFIELD. How much will the Senator from Wisconsin use?

Mr. NELSON. May I have 10 or 15 minutes?

Mr. ABOUREZK. I yield 15 minutes to the Senator from Wisconsin of my time.

Mr. MANSFIELD. Would the Senator yield me 15 minutes?

Mr. ABOUREZK. I yield Senator MANSFIELD 15 minutes of my time after the completion by the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Montana is yielded 15 minutes and the Senator from Wisconsin 15 minutes.

Mr. CASE. We ought to have a general discussion. I think it would be desirable and fair to people who have been waiting around here for about an hour, like Mr. STONE of Florida and the Senator from Mississippi, also on this particular amendment, to dispose of this if we can and then deal with what I think all of us are interested in, the general matter, under other time.

Mr. ABOUREZK. I ask for the yeas and nays on the McClure amendment.

Mr. CASE. Mr. President, will the Senator please withhold that because we have given notice that we will move to table the amendment.

Mr. MANSFIELD. The Senator can do that.

The PRESIDING OFFICER. The yeas and nays would not prevent a tabling motion.

Mr. CASE. It would not prevent a tabling motion even though a time limitation has occurred? That only occurs when there is an agreement to vote at a fixed time.

The PRESIDING OFFICER. The Senator is correct.

Mr. CASE. I do not object.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, has the motion to lay on the table been offered yet?

Mr. CASE. It will not be offered until everybody has had a reasonable time under the amendment itself. There are 9 minutes left to the Senator from Idaho and the opposition has 30 minutes.

The PRESIDING OFFICER. The motion to lay on the table will not be in order until all time has been used or yielded back.

Mr. ABOUREZK. A parliamentary inquiry, Mr. President. My understanding was that on unscheduled amendments, not on unprinted but unscheduled amendments, there would be 15 minutes to a side; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. ABOUREZK. How is it that Senator Case has 30 minutes left on this amendment?

The PRESIDING OFFICER. This is a scheduled amendment.

Mr. McCLURE. I had an hour reserved.

The PRESIDING OFFICER. This is a scheduled amendment of the Senator from Idaho.

Mr. NELSON. Mr. President, the time yielded to the Senator from Wisconsin is from the time of the Senator from South Dakota?

The PRESIDING OFFICER. The Senator is correct.

Mr. NELSON. In response to the Senator from New Jersey, I have an additional brief comment to make on the pending amendment. However, I would like to make my remarks now because I wish to comment on some of the remarks made respecting the parallel between the Gulf of Tonkin and this situation. So I would rather use my 15 minutes now so that it is in context with the discussion that has been going on here on the Tonkin resolution.

Mr. CASE. We will never work this thing out except on the basis of comity. That is the reason why I suggested, perhaps in fairness to the Senator from Florida, that he might be permitted to go ahead now. He has been waiting for an hour for a few minutes in opposition to the amendment itself.

I think it would be rather appropriate to let him have his time in opposition, then Senator STENNIS 2 or 3 minutes. I have no objection myself at all, but I think it is only fair to try to proceed in a fairly orderly way on this.

I do understand this, Mr. President, of course, that this amendment, and most all amendments, are really not offered so much for themselves as they are for expressing a point of view on the resolution in its broadest phases, and I do not object to that at all. But I do think in order to permit reasonable accommodation of the Senator from Florida and the Senator from Mississippi we ought to let them have their way at this point before the Senator takes off on a rather extended discussion of the general proposition.

Mr. NELSON. I might say to my great and good friend I have been here a half-

hour longer than the other two, if they have been here for only an hour. I want my remarks to be in the context of the debate that the Senator from Idaho was making, and if it is a very important point to the other two Senators I will sit down and make them after the amendment is over with.

Mr. CASE. Let the Senators speak for themselves.

Mr. STONE. Mr. President, if the Senator will yield, the Senator from Florida is most anxious to hear the comments of the Senator from Wisconsin, and the Senator from Florida will wait until the Senator is through.

Mr. NELSON. The only reason I ask it—and ordinarily I would not—is that I am responding to some comments made by the Senator from Idaho respecting his pending amendment.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. NELSON. I yield to the Senator from Iowa for a unanimous-consent request without losing my right to the floor.

Mr. CULVER. I thank the Senator for yielding.

I ask unanimous consent that Mr. Charles Stevenson of my staff be permitted floor privileges during the course of the consideration of this legislation.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. NELSON. Mr. President, I intend to vote for the amendment of the Senator from Idaho or against tabling, if that is what the pending motion will be, precisely for the reason that I want to be sure that we do not get into another disastrous *Mayaguez* incident without any consultation with the Congress.

The President's action on *Mayaguez* made a farce out of the War Powers Act so far as that incident is concerned. We ought to face it and we ought to admit it.

Now, just because everybody was on an emotional binge and thought it was a great idea to show our power and because it appeared to have succeeded, does not mean we should not stick to what the law is. As I said a few moments ago, if we had, we would have lost none of our troops, we would have gotten all the other 30 sailors back, and we would not have had to suffer the effects of this foolish and unnecessary incident.

Now, Mr. President, I would like to comment a little bit on Tonkin. I think there may be some vague parallels, but I must say I think the Senator from Idaho overdraws the parallel between the Tonkin resolution and the pending proposal.

I was on the floor at that time for 2 solid days in the consideration of the Gulf of Tonkin resolution. That was on August 6 and 7, 1964. A Presidential campaign was on. The President of the United States and the Democratic Party were saying that we are not going to get into any war, and we were raising the alarms that the Republican candidate for President would get us into a big war which we Democrats opposed. That is the context and the political climate in which that resolution was considered by the Congress.

I offered an amendment to the Gulf of Tonkin resolution which spelled out quite specifically the intent of the Congress respecting that resolution. In that amendment it was provided that nothing in the Gulf of Tonkin resolution shall be interpreted to change our role from a role of technical aid, advice, and material assistance. That nothing in the resolution was intended to change that role.

Our role for years had been technical aid, materiel, and no more.

I was trying to make it perfectly clear that that resolution did not authorize the sending in of any ground troops into Vietnam.

The legislative history is absolutely clear, though the interpretations written by many historians about what the Gulf of Tonkin authorized are plainly incorrect and should be set straight.

The historians are writing and saying the Gulf of Tonkin resolution authorized the President to send ground troops into Vietnam. Let us look at the political climate at the time.

At the time the resolution was pending, before we acted on the resolution, and on October 2, almost 2 months after we adopted the resolution, President Johnson said:

> I am not going to send American boys to fight a war that Asian boys should fight for themselves.

Could it be clearer what our interest was in the context of the debate, discussion, politics, and statements of the President, before and after Tonkin?

If the Senator from Arkansas, Mr. Fulbright had stood on the floor of the Senate those 2 days while my amendment was pending and said, "Yes, this authorizes sending an army into South Vietnam and that is our intent." President Johnson would have repudiated him in 30 minutes. The attack at the time on the Republican candidate was that that was what he wanted to do.

So when we interpret the action of the Congress, we have got to interpret it in terms of what was going on at that period.

What did happen was that after the Gulf of Tonkin and several months later when Vietnam was deteriorating, President Johnson chose to use the loose language of Gulf of Tonkin resolution for a purpose and an intent that was not expressed by him or anybody else at the time it was adopted. When the situation further deteriorated in February the President started calling Members of this body to the White House, and everybody who was a Member then and is here now was called there. I was there.

The President said, "We need to send in some ground troops."

As I recall it, he wanted to send in about 55,000 troops at that time. That would have been, and was when it happened, a conversion of our role in Vietnam from one of technical aid and assistance to one of a direct military participation in that war with our troops.

I left the White House that night and rode home with the Vice President. I said to the Vice President, "HUBERT, if we do that, we are going to get into a big war in Vietnam."

I can remember almost exactly the response. The Vice President said "Do you know, GAYLORD, there are people in the Pentagon and people in the State Department who want to send in 300,000 troops? The President will never get sucked into that." That was the response of the Vice President.

In early April, about 6 weeks later, the President then asked for action on a $900 million appropriation support sending the ground troops. The Presidential request came to the House of Representatives and was acted upon within hours.

I got a call from Congressman KASTENMEIER as to what I was going to do about this $900 million which was going to be used to support ground troops in Vietnam. I said, "I have not heard of it. Is there a committee report?"

There was none. They acted within 24 hours and then it came to the floor of the Senate. I stood up on the floor of the Senate and opposed it along with Senator Gruening and Senator Morse and the three of us voted against the appropriation when we had the rollcall. That is when our role in Vietnam changed. It occurred when the Congress voted the appropriations to endorse what the President told them he was going to do.

If there had never been a Tonkin resolution, if we had never heard of Tonkin, the same event would have occurred. Tonkin did not authorize it, Congress did.

I want to be certain in this instance that it is clear that we do not authorize sending any troops into the Sinai to rescue civilians who are going in as volunteers. They are hired and paid for their services, and have been invited by both sides. If they get hurt, that is their problem, but we should not send our troops into that situation.

So I am going to vote for the amendment.

The PRESIDING OFFICER (Mr. GLENN). The Senator from Montana.

Mr. MANSFIELD. Mr. President, it was refreshing once again, in a moment of potential crisis, to listen to the distinguished Senator from Wisconsin (Mr. NELSON) state the true history of the Gulf of Tonkin resolution and the part he played in it, about which I will have something to say shortly.

But I would point out, Mr. President, that we had better stop, look and listen now, and recognize the potentialities involved in the legislation before the Senate today.

This is just the first small and probably least expensive step on a long journey which will begin with the stationing, I assume, of American civilian technicians in the Sinai between the Israeli and the Egyptian troops located thereon.

It takes nothing into consideration concerning what will happen on the Golan Heights. Will there be American technicians stationed there? And at what cost?

Nothing is being said about the next step, probably the West Bank of the Jordan. Will American civilian technicians be stationed there? Perhaps. And at what cost?

It says nothing about the difficulties inherent in bringing about a settlement for the old city of Jerusalem.

It says nothing about Sharm al-Sheikh.

It says nothing about the PLO.

So I want to raise a warning, if I may, that this is the first small step toward what can become a real involvement as far as this Nation is concerned and, for the first time in this situation, a direct involvement.

Mr. President, I oppose this resolution. Senators should not be under any illusion. This is not simply a resolution to authorize the President to send 200 civilian technicians to the Sinai.

It is a resolution to alter radically the United States' role in the Middle East, the most volatile and dangerous area in the world.

It is a resolution which would result in the Senate's ignoring the treaty provisions of the Constitution.

It is a resolution which will trigger far-reaching commitments to Israel and Egypt without either Congress or the American people knowing the extent of those commitments.

Finally, it is a resolution which has ominous parallels to Congress consideration of the Gulf of Tonkin resolution.

Eleven years ago the Congress, in great haste, approved the Gulf of Tonkin resolution. Then, as now, there were pleas from the executive branch for speedy action. No member of this body contemplated that his vote for that resolution would lead to 11 years of war and more than a third of a million American casualties.

The 303,000 Americans were wounded, more than 55,000 Americans are dead, and the cost will reach about $400 billion before the end of the first half of the next century.

At that time our role in Vietnam was only as advisers. No change in that role was intended by Congress in passing that resolution, as the distinguished Senator from Wisconsin has so aptly brought out. He referred not to the Gulf of Tonkin resolution as being responsible for our participation in Vietnam, that is, the Congress, but when we voted the first appropriation bill.

Here, too, we have a resolution rather innocuous on its face, contemplating only the sending of a limited number of civilian technicians. But, as we should have learned from our experience in Indochina, all too often, events, not good intentions, shape, and control policy.

There is another uncanny reminder of the Gulf of Tonkin resolution here. On Wednesday, the Foreign Relations Committee initially approved an amendment to the text of the House resolution which would have eliminated the implication in section 5 of the resolution before us that the President has inherent authority to make the commitments contained in the underlying secret agreements with Israel and Egypt. Later, the committee reversed itself and struck out that amendment on the grounds that changing the resolution would risk having to go to conference with the House and delay final congressional action on the measure. We are seeing some of the results of that today.

I recall that during the closing moments of the debate on the Gulf of Tonkin resolution Senator NELSON proposed an amendment which would have reiterated that the American role in Vietnam was to be limited to the giving of aid and advice. Senator FULBRIGHT, the floor manager of the resolution, said that, although the amendment reflected President Johnson's policy, adoption of it by the Senate would probably require a conference with the House and delay final passage. History may have taken a different turn if the Senate had done what was right rather than what was expedient, and had followed the advice of the distinguished Senator from Wisconsin (Mr. NELSON).

Mr. President, the sending of American technicians to the Sinai changes the nature of our involvement in the Middle East. By placing the American flag in the middle of the conflict the chances of our involvement in the next round of fighting, should it occur, will be greatly increased, as will the danger of a confrontation with the Soviet Union. This action demeans the peacekeeping role of the United Nations, because they are the ones who should have furnished the technicians. Instead of strengthening that role we are weakening it. I fear that this arrangement for an Israeli withdrawal from some 1,500 square miles of sand—possibly one-tenth, certainly no more, of the entire Sinai—has not enhanced, but has diminished, the prospects for an overall settlement.

It will be argued that Congress has minimized the danger that the technicians will serve as a tripwire to U.S. military involvement in specifying in the resolution that the technicians must be removed if fighting breaks out and that they can be removed by concurrent resolution if Congress thinks they are in danger. Congress is deluding itself if it thinks that these technicians can be pulled out without thereby virtually insuring an outbreak of fighting. Does the Senate want to take on the responsibility for triggering another round of fighting?

And how would we get the technicians out? By use of our military forces, of course.

There are too many potential pitfalls which have not been adequately examined in connection with this proposal.

Much stress has been placed on the fact that civilians, not military men, will be sent to the Sinai. I find no comfort in this argument.

Is the American flag any less involved because they will be civilians?

Are assigned civilians any less deserving of protection by their Nation?

I think not. A national commitment will be involved, either way.

Although the resolution states that passage will not constitute approval of the underlying agreements, this is but an attempt to allow Congress to have its cake and eat it, too. No language in this resolution, the committee report, or assurances from Secretary Kissinger can change the essential fact that the technicians are a part of a package deal. Israel did not sign the pullback agreement in isolation from the assurances contained in the secret agreements. These agreements are part and parcel of the overall arrangement.

If there is any doubt on this score, the State Department has told the Congress that two of the agreements with Israel will not be signed until after Congress has approved the sending of the technicians. No congressional approval is sought for those agreements. It is alleged by the State Department that they are within the President's power to make unilaterally. Once the Congress approves the sending of the technicians, it is morally and politically bound to support the package. Congress cannot wash its hands of the pledges in the other agreements, without a specific statement of disapproval. Its action will be construed as consent.

The disclaimer in the resolution reminds me of the provision the Senate put on the initial Cambodia aid bill in 1970, following the beginning of our military involvement there. The provision stated that by giving aid, the United States was not committing itself to defend Cambodia, thus allowing Congress to say that it had not approved any commitment to the Lon Nol government. But that was followed by more than 4 years of doing precisely what Congress said we were not committed to do. The underlying agreements with Israel and Egypt are there and in this resolution Congress has done nothing to challenge their validity.

Executive branch spokesmen have attempted to downplay the significance of the underlying agreements, which will not be presented to the Congress for approval. Yet the Senate's legislative counsel conclude:

> Constitutionally, Agreement E (with Israel), and possible G (with Israel), and H (with Egypt), are beyond the power of the President to enter into without the advice and consent of the Senate.

For the last several years the Senate has attempted in various ways to restore Congress' proper role in the making of foreign policy. This has focused on efforts to restrain the Presidential practice of making unilateral commitments to foreign countries without congressional approval. Three years ago, for example, the Senate by a vote of 50 to 6 said that any base agreement of foreign aid pledge to Portugal or Bahrein should be submitted as a treaty, subjects of infinitely less significance than the agreements involved here. As distinguished witnesses such as George Ball and Paul Warnke told the committee, several of the provisions in the agreements involved here could be interpreted as military commitments to Israel.

But, the Senate is unable to debate the executive branch's interpretation of these agreements, which will be signed when Congress approves this resolution, because the State Department's legal opinion is classified "secret." How many Members of this body know what is in that document? How many can say, in the view of the executive branch, what the United States is legally committed to?

Yet, in voting for this resolution we will be saying to the President, "I do not contest your right or authority to make the kind of commitments contained in these four agreements." Congress will again be passing the buck to the President, sanctioning his making—uni-

laterally—major commitments to foreign countries. The Senate will be turning back the clock, repudiating the policy endorsed in the national commitments resolution, by a vote of 70 to 16, that a commitment to another nation can come only by "means of a treaty, statute, or concurrent resolution of both Houses of Congress specifically providing for such commitment."

Mr. President, this resolution does not face squarely the issue of American policy and commitments in the Middle East. It represents only the tip of the iceberg of the Sinai package of agreements. In voting for the resloution, Senators will not be voting only on sending 200 technicians to the Sinai. They will be committed to this entire package of agreements and the significant change in American policy they represent. Throughout the course of our involvement in Indochina the best intentions of Presidents and Secretaries of State were overridden by events. The costs of this package are too high. The risks of the course contemplated by this resolution are too great.

Mr. STONE. Mr. President, I ask for 10 minutes.

Mr. HUMPHREY. Mr. President, how much time do we have?

The PRESIDING OFFICER. Thirty minutes.

Mr. HUMPHREY. I yield the Senator from Florida 10 minutes.

Mr. GOLDWATER. Mr. President, will the manager of the bill on the other side yield me 5 minutes after the Senator from Florida is through?

Mr. HUMPHREY. The Senator from Mississippi has requested 5 minutes. Then I shall be happy to yield to the Senator from Arizona.

Mr. GOLDWATER. The reason for the request is that the Republican candidate for President in 1964 was mentioned. I happen to know him, and I would like to say something about that.

Mr. HUMPHREY. I would like to say a few kind words about him myself—a little late in life, but I would like to take the opportunity.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. STONE. Mr. President, when terrorists invaded the Egyptian Embassy in Spain and held its representatives hostage demanding the repudiation of this Sinai agreement, the response of President Sadat of Egypt was to stand firm. Will we deny him this chance for peace?

When the Prime Minister of Israel was pressured and urged to give up strategic military Sinai passes held by Israel, and he did so in this agreement, thus jeopardizing the domestic political existence of his government, which rests on a very narrow political coalition in the Parliament of Israel, he took that chance. Will the Senate deny him this chance for peace?

The figure of 200 is a figure that has been placed before this body repeatedly: 200 technicians; 200, 200, 200. The Senator from Florida wishes to advance another figure. That figure is 260.

There have been 260 Americans stationed in the Golan Heights and on the Lebanon border as a part of the United Nations peace-keeping force since 1949, without major losses and without troops being called upon to rescue them. In fact, how many of my colleagues even knew they were there?

There are, at this moment, the State Department confirms to my staff, 36 such technicians present there now, and they are military technicians. Has there been any protest? There have been three wars since those American technicians have been stationed in that area. Has there been any major incident? Are we being called upon to rescue them? Were we called upon to rescue them during the three wars in the area?

With whom are they working? They are working with the United Nations. And with whom else? With the Soviet Union, whose technicians are stationed right beside them.

So when the distinguished majority leader, whom this Senator loves and reveres, cautions us that we might be called upon some day to send technicians to the Golan Heights, I say we have had them there since 1949 without major incident, and with much profit to the cause of peace.

To what are we being asked to liken the Sinai agreement? To the Gulf of Tonkin resolution. To what are we being asked to liken this chance for peace, and it is only a chance? To the Vietnamese conflict, in which the United States participated militarily on one side.

The Senator from Florida would suggest a more apt—at least to the Senator from Florida—historical parallel. That parallel occurred when the President of the United States, at the end of the war to end wars, President Woodrow Wilson, tried to set in motion a process for peace. After negotiating skillfully and using everything he had—his heart, soul, and the strength of the American presidency he came back to the Senate, came back to this body, and tried to have the League of Nations ratified, and he was denied it by the Senate. That is the more accurate parallel.

If we wish to have a chance for peace, we have to take a chance for peace. During all the months that Israel was being reassessed against by the United States and being urged by some—and many of the same Senators and leaders who now wish to deny this peace opportunity—to take a chance for peace by getting out of strategic military Sinai passes, what was the call? The call was, "you must take a chance for peace."

You must take a chance for peace. Now Israel has done it. And just as much to the point, the major, the largest, the most significant country in the Arab world, the country of Egypt, also took that chance and proved that it really meant it when its own ambassador was seized to try to back Egypt down

Shortly the President of Egypt will visit this Nation. Will he visit this Nation on the ashes of an agreement that has been initialed but not signed, because we forbid it to be signed? That would be ridiculous.

The Senator from Idaho has said, in the course of supporting his amendment, that we are not now personally physically involved. We have 36 physical involvements there now—the U.S. technicians on the Golan. The Senator from Idaho has asked, in support of his amendment, "Where does this course of conduct lead inevitably if there is a conflict?"

I admit there is a risk. The Senator from Tennessee was man enough to face up to the risk and say of course, if we take a risk by sending our peace-keeping monitors it means protecting our people, just as it means protecting our Ambassadors in Israel, in Egypt, and everywhere else. Or the 36 U.S. peacekeeping technicians that are there now, and the 260 that have been there since 1949.

But I ask, is this course of conduct inexorable? Does this course of conduct inevitably mean that it must lead to a conflict?

The President of Egypt has said no, and he faced an overt challenge, not merely a threat.

In conclusion, Mr. President, it is wrong, it is not only inaccurate but it is wrong, to try to make us think that taking a chance by extending peace is the same as what we did when we took a chance by extending war in Vietnam. This is not yet 1984. Doublethink is not yet here.

War is not peace. Peace agreements are not war agreements.

The Senator from Florida urges that we defeat this and all other crippling amendments and give peace a chance.

Mr. HUMPHREY. Mr. President, I yield 5 minutes to the able Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I feel compelled to say something on this subject because of the assertion of similarity between this matter and our going into South Vietnam.

Preliminarily, though, let us remember the background: that this is the first time, so far as I know, that Israel and Egypt have ever sat down at the same table. It is a great event in history, to me anyway. It is progress. The two nations have made an attempt, apparently, an honest attempt, to set up some kind of a structure here that will lead further.

I am not particularly happy about what has evolved in the negotiations requiring of us a presence there in the desert.

I am one of those who was here in 1954—not 1964, 1954—when we sent the first uniformed military men into South Vietnam. They were airplane mechanics. There were 200 of them. We sent them there for the purpose of keeping the French airplanes flying. They were mechanics. They had the necessary skills. We had already given them the planes.

I, as a country boy, knew that it was a committal of those men. I thought we owed the men everything should they get in trouble, because we sent them there.

But we are not sending anyone this time. No one is going to fight on either side. These volunteers will be civilians,

not under military orders or control, or any control, except the President of the United States. They are going not to fight, but to serve. It is possible they may get into something else, but they are not going to fight.

The avowed purpose, on the other hand, in Vietnam was to take sides, to fight and to win.

Now we are taking this step to keep the peace; not even as arbitrators, but simply to insure that these people on both sides get the same intelligence. That may be a big step forward.

I am one who took very seriously this war in South Vietnam. I am as responsible as anyone else and I do not claim any kind of immunity. But I was opposed to the mechanics going in there in the beginning in 1954.

Now we have a situation that is altogether different. Let us not try to smother this by the Bay of Tonkin matter when a resolution passed, as I said before, in a spirit of patriotic outburst. I move on from that. I do not dwell on that.

I want these volunteers notified, and this resolution covers it. No one has to go. They are going voluntarily; they are taking the chance; it is their choice.

Of course we cannot cut them off, though, and make them a target for guerrillas, or other irresponsible people, or in any way make them targets. With great definiteness, I think the amendment goes too far, to put in cold print: "We disown you. We are not responsible under any circumstances. Therefore, anyone who wants to jump on you can do it and we wash our hands now."

That would be misunderstood and put them in an unusual undue hazard, and would work against the whole operation perhaps of this unusual procedure. It is an unusual procedure, true, but we cannot ignore the fact that we have some stakes there. We have some stakes for the time being at least in that area because of the oil that comes out of that area. If there is a slim chance that we can be a part of the processes whereby this thing could evolve and be turned around I think it is a chance that I am willing to take.

Mr. President, I reserve the right to review carefully the amount of money or anything else involved in military aid. I make full reservations on that.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. I thank the Chair.

Mr. HUMPHREY. I will yield 3 minutes.

Mr. GOLDWATER. I think 3 minutes might do it.

Mr. HUMPHREY. Three minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona has 3 minutes.

Mr. GOLDWATER. Mr. President, during the time my good friend from Wisconsin was discussing the Gulf of Tonkin resolution, he referred to the Republican candidate of 1964. I knew him well.

I just would like to put the record straight, not intending any discourtesy to my friend from Wisconsin. I recall discussing with the Republican candidate at that time that we were already at war in South Vietnam. President Kennedy had sent 16,500 troops with orders to shoot back.

I opposed the Gulf of Tonkin as much as I could, and I advised the Presidential candidate of the Republican Party to oppose it, but he was in no such position. However, he indicated his displeasure with it.

What the Presidential candidate of the Republican Party advocated in 1964 was no ground troops in Southeast Asia, and he did that because he had served in that part of the world, and it is no place for American boys to be.

But what the Presidential candidate of the Republican Party did advocate was the proper use of air power, inasmuch as we were at war, the proper use of the troops that we already had, taking them out from under the misdirection of probably the worst Secretary of Defense this country has ever had and plain win the war.

You know, the longer I live, the stronger I grow in the belief that in my heart I know he was right.

Mr. HUMPHREY. Mr. President, how much time do I have?

The PRESIDING OFFICER (Mr. FORD). The Senator has 12 minutes remaining.

Mr. HUMPHREY. Mr. President, I yield myself at this time 8 minutes.

Mr. President, the effort to equate the Tonkin Gulf resolution, known as the Gulf of Tonkin agreement, with the current resolution Senate Joint Resolution 138 is not only like trying to compare apples and oranges but it is, more importantly, like trying to compare a rabbit with a rhinoceros.

Let us just take a look at the facts.

I shall read the operative section of the Gulf of Tonkin resolution, section 2, the first part being the whereases. It states:

SEC. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

Now I say to our colleagues that is a statement of purpose by the Government of the United States to fulfill a treaty obligation as it saw it at that time with the President having the full power to determine, as it says here, to take all necessary steps, including the use of armed force and the Armed Forces of the United States, to assist any nations that signed up under the Southeast Treaty Organization. That was a specific commitment of the use of Armed Forces of the Government of the United States.

By the way, I say once again that the Members of this body knew exactly what they were voting for. There was no doubt about it. I was not Vice President at that time. I was sitting here as the majority whip. I was involved in that debate, and I asked specifically members of the Committee on Foreign Relations, including the chairman, "Does this resolution contemplate the possible use of troops?" The answer was, "Yes." We knew what we were doing. We cannot erase history.

What are we talking about here? The resolution before us refers to the assignment of no more than 200 U.S. civilian personnel to carry out certain specified noncombatant functions. I want to underscore noncombatant civilian personnel. Then it goes on to say that the proposal would permit the Government of the United States to withdraw such personnel if it concludes that their safety is jeopardized or the continuation of their role is no longer necessary. It goes on to stay, further, that the whole purpose is to enhance the prospect of compliance in good faith with the terms of the Egyptian-Israel agreements and thereby promote the cause of peace.

There is not a word here about the use of armed forces. There is not a word here that, somehow or other, the President can just determine anything he wishes. The President has put before us a specific proposal, and the issue is clearly drawn: Do you want to send 200 civilians, volunteers, for noncombatant purposes, under the restraints in this resolution?

What are the restraints? The restraints are that the United States civilian personnel assigned to Sinai under such proposal shall be removed immediately in the event of outbreak of hostilities between Egypt and Israel, or if Congress, by concurrent resolution, determines that the safety of such personnel is jeopardized, or the continuation of their role is no longer necessary.

What did the Gulf of Tonkin resolution say? It said, "We will use armed forces."

Not only that, President Kennedy and President Johnson had given orders to our forces that were there—not civilians but armed forces—to defend themselves. They were in the Army of the United States. The Green Barets, as Senator GOLDWATER said, were there already—more than 16,000 of them. Many already had been killed.

The Senator from Florida is correct in saying that a large number of Americans has been assigned in the Middle East before. The presence reached a high point in 1947–48, when 357 Americans were assigned to the U.N. Truce Supervisory Organization. Between 1950 and 1973, the number varied between 8 and 20. Following the 1973 war, it was agreed there would be 36 Americans as well as an equal number of Soviets. The Russians are there with the U.N. Truce Supervisory Organization and so are the Americans. There have been no incidents. We have not sent in any troops, nor have the Russians sent in any troops.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. HUMPHREY. Not now.

Here is a request that 200 Americans be sent to the Sinai. In 1954, says the Senator from Mississippi, 200 military were sent to South Vietnam—military technicians, to repair French airplanes so that the airplanes could fly and fight. We are sending 200 over to insure that airplanes do not fly. We are sending 200

over as surveillance officers, with the most sophisticated radar, to see that there are no military operations. We are sending them there and putting them in a buffer zone, not in a war zone. We are sending them there with the protection of the United Nations forces, where we already have 36 Americans.

There is no comparison with the Gulf of Tonkin resolution. We are not saying to the President, "Mr. President, go ahead and use armed forces." We are not saying to the President, "We have a treaty that you have to back up."

The President of the United States is saying to us, to the Members of Congress, "Will you authorize the use of 200 civilians for a noncombatant purpose, for the purpose of insuring the validity of an agreement between Egypt and Israel?"

Both Israel and Egypt have asked us to play this role. It is not that we have forced them in. They are American civilians who have been required and asked for by President Sadat and Prime Minister Rabin.

This is not like somebody saying we are sending the Marines. This is not like somebody saying we are sending in the Green Berets. It is like somebody saying we are sending in the keepers of the peace—hopefully.

A risk? Of course. It is a risk to walk out of this building. It is a risk to walk across the street. The only people who have no risk are in tombs. It is a risk to be born. Where are these riskless people?

But I want to talk today about the necessity of our having enough courage to take a risk for peace. There have been resolutions in this body, such as the Middle East resolution of 1956 that had a great deal about sending American forces over, which we readily passed. Now, for the first time, somebody comes to us and says to Conrgess, "Will you put 200 Americans in the Sinai to prevent forces moving across the buffer zone? Will you put 200 Americans with radar and electronic surveillance equipment to give advance warning if there is any movement of troops, so that we can prevent a war? Will you take a little step to assure the possibility of peace?" Peace does not come because you ask for it. Peace comes because you work for it and you take a risk for it. We are not telling the President to use armed forces. We are telling him to use the instruments of peace.

The only other argument is that once you have asked an American, as a duty or as a patriotic duty, to volunteer for this particular assignment, the question then arises that if something happens to him, does this Government have any responsibility? The Government has the responsibility for 36 who are there right now. The Government of the United States has the responsibility for a student who gets caught some place in Europe. You do not always send armed forces.

These 200 will have more protection than any 200 Americans any place else in the world. The 200 hundred Americans asked for by Israel and Egypt in the Sinai will have the protection of the U.N. Forces.

We are being told today that this is Vietnam all over again. I wish to God—and I say it reverently—that we had had as much sense about Vietnam as we have about this matter. I wish we could have had 200 observers over there to come back and faithfully report what was going on. I wish we had had 200 people who understood the political consequences of that war. Everybody in this body who served in it has his own responsibility. I do not shirk mine. I have never backed away from it.

Yes, I think we made a mistake. That is exactly why we have a resolution such as this, that says that we are going to see that the War Powers Act applies. It says, further, that nothing in this resolution, according to the amendment I have offered, shall in any way be interpreted as giving the President any extra powers.

You cannot repeal the Constitution on the floor of the Senate. You will have to do that by the vote of the States. The Constitution of the United States does give the President of the United States certain powers, exactly as it gives Members of Congress immunity from arrest during their service in this body. There are certain powers that are there, and all the talk and all the rhetoric and all the amendments and all the resolutions to the contrary do not change the fundamental document; and that document gives the President certain powers. We have tried to restrain and restrict those powers because of the tragic experiences we have had.

One of the reasons for this resolution, plus the amendment that the Senator from Minnesota just offered, as passed by the House of Representatives, is to see to it that as we search for peace, we do not unwittingly fall into a trap of war. That is it. We are searching for peace. We are doing the work of peace, and blessed are the peacemakers.

It takes guts to work for peace. It takes risk. The Israelis gave up a lot. They gave up plenty. And the Egyptian leader takes his life in his hands to sign this agreement. The militant radical forces of the Arab world do not want this agreement. They threaten the President of Egypt. The Israelis have hard-core people there, too, hard-liners. The Government of Israel is a very fragile government today.

All we are saying, simply, is, peace is a process. These are first steps, first steps toward an ultimate settlement in the Middle East.

As the distinguished majority leader said, great problems lie ahead. Sinai, yes. Golan Heights, Sharm al-Sheikh, Gaza Strip, West Bank, PLO, Jerusalem—those are monumental steps ahead of us.

I want to tell the Senate something: It is not going to be any better if we pretend that we can do nothing about them. The fact that there is some movement, the fact that our Government has pledged itself to seek more movement, the fact that we are acceptable in that area by the Egyptians, in light of our past history, is to be a great forward step.

I want President Sadat, when he comes here, to be impressed by one fact, that the Senate of the United States and the Congress of the United States are willing to take a risk for peace, just as he is willing to put his life on the line. We want to be able to say to that President, "Mr. President, let us move further." We have to say to the President of Syria and the Prime Minister of Israel, "We must move further." And we can do it.

I would not be standing here at this chair—this is not my duty—unless I believed this. I am asking the Senate to reject these amendments. Senate Joint Resolution 138 has been well worked out. It needs to be adopted, and as promptly as possible.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Idaho has 9 minutes. The Senator from Minnesota has 4.

Mr. CLARK. Will the Senator from Minnesota yield for a question?

Mr. HUMPHREY. Mr. President, first, I ask unanimous consent to have the full text of the Tonkin Gulf resolution printed in the RECORD, as well as the full text of this resolution, with the proposed Humphrey amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TONKIN GULF RESOLUTION

[Public Law 88-408 [H.J. Res. 1145] 78 Stat. 384, approved August 10, 1964

[A JOINT RESOLUTION To promote the maintenance of international peace and security in southeast Asia.

[Whereas naval units of the Communist regime in Vietnam, in violation of the principles of the Charter of the United Nations and of international law, have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters, and have thereby created a serious threat to international peace; and

[Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam has been waging against its neighbors and the nations joined with them in the collective defense of their freedom; and

[Whereas the United States is assisting the peoples of southeast Asia to protect their freedom and has no territorial, military or political ambitions in that area, but desires only that these peoples should be left in peace to work out their own destinies in their own way: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.

[Sec. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

[Sec. 3. This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress.]

S.J. RES. 138

Joint resolution to implement the United States proposal for the early-warning system in Sinai

Whereas an agreement signed on September 4, 1975, by the Government of the Arab Republic of Egypt and the Government of Israel may, when it enters into force, constitute a significant step toward peace in the Middle East;

Whereas the President of the United States on September 1, 1975, transmitted to the Government of the Arab Republic of Egypt and to the Government of Israel identical proposals for United States participation in an early-warning system, the text of which has been submitted to the Congress, providing for the assignment of no more than two hundred United States civilian personnel to carry out certain specified noncombatant functions and setting forth the terms and conditions thereof;

Whereas that proposal would permit the Government of the United States to withdraw such personnel if it concludes that their safety is jeopardized or that continuation of their role is no longer necessary; and

Whereas the implementation of the United States proposal for the early-warning system in Sinai may enhance the prospect of compliance in good faith with the terms of the Egyptian-Israeli agreements and thereby promote the cause of peace: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized to implement the "United States Proposal for the Early-Warning System in Sinai": *Provided, however,* That United States civilian personnel assigned to Sinai under such proposal shall be removed immediately in the event of an outbreak of hostilities between Egypt and Israel or if the Congress by concurrent resolution determines that the safety of such personnel is jeopardized or that continuation of their role is no longer necessary. Nothing contained in this resolution shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

SEC. 2. Any concurrent resolution of the type described in the first section of this resolution which is introduced in either House of Congress shall be privileged in the same manner and to the same extent as a concurrent resolution of the type described in section 5(c) of Public Law 93-148 is privileged under section 7 of such law.

SEC. 3. The United States civilian personnel participating in the early warning system in Sinai shall include only individuals who have volunteered to participate in such system.

SEC. 4. Whenever United States civilian personnel, pursuant to this resolution, participate in an early warning system, the President shall, so long as the participation of such personnel continues, submit written reports to the Congress periodically, but no less frequently than once every six months, on (1) the status, scope, and anticipated duration of their participation, and (2) the feasibility of ending or reducing as soon as possible their participation by substituting nationals of other countries or by making technological changes. The appropriate committees of the Congress shall promptly hold hearings on each report of the President and report to the Congress any findings, conclusions, and recommendations.

SEC. 5. The authority contained in this joint resolution to implement the "United States Proposal for the Early-Warning System in Sinai" does not signify approval of the Congress or any other agreement, understanding, or commitment made by the executive branch.

Mr. CLARK. Will the Senator yield on his time for 1 minute for a question?

Mr. HUMPHREY. I yield on the Senator's time. He has so much.

Mr. CLARK. Do I have time, Mr. President?

The PRESIDING OFFICER. The Senator has time on the resolution.

Mr. CLARK. I yield on my time.

It seems to me, listening to the debate that has taken place the statement by the distinguished majority leader and the statement by the Senator from Wisconsin, that the very point was not that the content of the Gulf of Tonkin resolution is comparable to this. I interpreted both of their statements differently. It is not the content, but, rather, the haste with which these are being considered and with which—that is the comparison—with which the Gulf of Tonkin was being considered.

What do I mean by the haste? I mean precisely the point that the Senator from Montana made, that when an amendment was offered in the Senate Committee on Foreign Relations that I certainly felt that the majority agreed was a good amendment, it was said, "No, we cannot accept that amendment, because it means we are going to have to go to conference."

I suspect that we are going to hear the argument all afternoon, and all day tomorrow, that we cannot accept amendments because it is going to mean that the House may have to stay here one more day and go to conference. To me that is the comparison that the Senator from Wisconsin and the Senator from Montana were making. We are going to be offering amendments here this afternoon. I know I have three and others are going to be offering amendments. I think that is the comparison. If the argument is not going to be made that we ought to consider these amendments on their merits, rather than whether we are going to delay the recess one more day, or whether we are going to argue that, somehow, we cannot possibly go to conference with these because we do not have time, then I think the comparison which they make is a very good one.

Mr. HUMPHREY. Mr. President, I shall respond on my time.

First, the argument will be made against the merits of the amendment as well as the procedure because there is a matter of substance called timing. If this agreement should unravel, if this agreement should not be signed at the time that a man who has put his political life on the line comes to visit, it can have serious political and international repercussions. That is the judgment of the Senator from Minnesota.

But let me talk about haste. I was here, on the Senate Committee on Foreign Relations, when we considered the Gulf of Tonkin resolution. It was considered in the morning, it was marked up at noon, and it was voted on in the afternoon. One day.

Mr. NELSON. I think the issue was on the floor 2 days, August 6 and 7.

Mr. HUMPHREY. It was a half day in the committee, brought in in the afternoon, and voted on the next day. The Senator is correct. That is the equivalent of 1 day, the equivalent in time of 1 day.

We have had this resolution before us since the first of September. We have had hours of hearings. It has had its documentation disclosed in the public press. It has been debated all across the Nation. We had the Secretary of State before us for 8 hours, I believe, approximately. We had the Assistant Secretary of State for the Middle East for many hours. It is not as if it has not been ventilated.

The real truth is, let us face it, there is an honest disagreement. I do not impugn the motives of anybody else. My goodness, there is good reason to be concerned about this. That is why we are here. There are people, such as my able and brilliant friend, the Senator from Montana, who do not believe that we should have this resolution. He makes a powerful case. I am for voting on the merits. But it is not as if somebody is trying to put a quickie through here, not at all.

May I say that many of the amendments which are being contemplated—I do not know all that will come—do not substantively change this resolution at all. Some of them are very modest. Some are basic. We will meet them on the basis of substance.

Mr. NELSON. Mr. President, will the Senator from South Dakota yield to me just 1 minute so I may make clarification of the record on my previous remarks, and in order to make an insertion in the RECORD?

Mr. ABOUREZK. I yield 2 minutes.

Mr. NELSON. Mr. President, in making my remarks respecting the vote on the appropriation to send ground troops into Vietnam in April of 1965, since I did quote, as best I could remember, the remarks of the distinguished Vice President at that time, I want the record to be clear that Vice President Humphrey was appalled by the idea that was advanced by people in the Department of State and in the Pentagon, that we should send in 300,000 troops. I think perhaps, in reading what I said, someone might interpret what I said to mean that the Vice President thought it was a good idea. He thought it was a very bad idea and was appalled that anybody was considering it.

In mentioning the Republican candidate for President (Mr. GOLDWATER), I did not wish to leave the impression that he wanted to start a ground war. What I was saying was that, in the context of the debate in the campaign, the Republican candidate was being attacked as one who wanted to start a big war. In viewing Tonkin in that context, it is pretty clear that neither the President of the United States nor this body intended to say that we were going to start a ground war in Vietnam.

THE CAMBODIAN VIEW OF "MAYAGUEZ"

Mr. President, last month the Deputy Premier of Cambodia, Mr. Ieng Sary, was interviewed in New York City. During the course of that interview, Mr. Sary discussed the Cambodia seizure of the American cargo vessel, the *Mayaguez,* last May, and the U.S. military action which quickly followed. Mr. Sary's remarks are particularly noteworthy since he handled the crisis for the Cambodian Government from Phnom Penh. He makes it perfectly clear that they were returning our crew and were getting them back as fast as they could and we bombed them anyway and sacrificed 50 lives. Mr. Sary states that Cambodian leaders in Phnom Penh did not know that their armed forces had captured the *Mayaguez* and in fact learned about the seizure only through American broadcasts, because in his words, "American technology enables them to bring information much faster than our armed forces." Their prompt response upon meeting with the military commanders involved was to order the immediate release of the *Mayaguez* and its crew. The release could not be effected, however, before American military action had begun. "We regret this incident" says Mr. Sary, "Death is unnecessary."

I submit for the RECORD the text of the *Mayaguez* portion of Mr. Sary's New York interview, as provided by the Indochina Resource Center of Washington, D.C., along with two press accounts of the interview which also appeared earlier last month, and ask unanimous consent that they be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REMARKS BY MR. IENG SARY, DEPUTY PREMIER OF THE ROYAL GOVERNMENT OF NATIONAL UNION OF CAMBODIA, CONCERNING THE EVACUATION OF CAMBODIA'S CITIES AND THE "MAYAGUEZ" INCIDENT

Concerning CIA activities in Cambodia and the Mayaguez incident:

According to the documents we found, there are Cambodians—not Americans—and they have joined the CIA organization. Because of this, we know that the CIA has continued its activities. Because of this our people have organized our vigilance.

On this point, we would like to tell you about the *Mayaguez* boat. This problem actually should not have brought about a big bloodbath. This affair I handled myself with my own hands.

In Cambodia there are two islands, Wei (sic) Island and Tang Island. The ship *Mayaguez* came from the east to the west (with gestures and two water glasses Mr. Sary demonstrated the ship's course). With the spirit of revolutionary vigilance the armed forces watched the ship *Mayaguez* come very close to the island, so our fighters had to capture it. From our information the ship *Mayaguez* came within six kilometers of the island, and the armed forces then captured the ship.

The leaders in Phnom Penh did not know it. This shows that our armed forces are very vigilant, preventing this from creating more problems. The armed forces are workers. In the ship they have the equipment—the radio equipment—and the armed forces knew that this ship was operated for information-gathering.

When the armed forces captured the *Mayaguez* ship, we in Phnom Penh did not know it and we learned only through the American broadcasts, because the American technology enables them to bring information much faster than our armed forces. After learning about the *Mayaguez,* we got in touch with the armed forces on the island and we called upon the commander in Kompong Som to come to Phnom Penh and inform us about all the activities in this affair.

Around 2:00 P.M. they arrived in Phom Penh. At 5:00 P.M. we ordered them back with instructions to release the *Mayaguez* ship immediately, conscious that we do not want to have any difficulties with the US government. While we were ordering the release of the ship the Americans bombed Koh Tang with the forces from Thailand. They bombed Koh Tang so hard that they thought everyone who stayed on Koh Tang had been killed. But our armed forces remained there waiting for the American troops to come and then we started to attack them. According to the US press they reported that 50 or 80 killed or wounded—but in reality, there were more than 100 killed or wounded.

We regret this affair, this problem. Death is unnecessary. We gave orders at Sihanoukville to release all Americans and American crew, yet the Americans came and bombed us, the Sihanoukville and Ream harbor, causing a lot of casualties to innocent peasants.

The CIA will continue to interfere in our problems and other activities. This is the reason that we have to continue to raise our vigilance. We have enough experience with the CIA, we know we cannot completely eliminate the problem, but we can deal with them.

[From the Washington Post, Sept. 8, 1975]

CAMBODIA: DIDN'T ORDER SHIP SEIZED

(By Elizabeth Becker)

The Cambodian government did not order the capture of the American merchant ship Mayaguez and first learned that its forces had seized it from an American radio broadcast monitored in Phnom Penh, according to a high Cambodian official.

Ieng Sary, deputy premier and foreign minister, said in a speech Saturday night in New York that after Cambodian leaders learned of the May 12 incident they ordered the leader of the local troops who seized the ship to travel to Phnom Penh to explain the seizure. He was then told to return to the area where the ship had been captured and release it.

Before these orders could be carried out, Ieng Sary said, American forces began their attack to recover the ship.

A State Department spokesman declined to comment on Ieng Sary's remarks.

According to official American reports, the capture of the ship occurred early the morning of May 12, and more than 50 hours elapsed before U.S. troops landed, after numerous warnings, on Tang Island on May 14. The boat and crew were recovered later. The incident occurred shortly after the American withdrawal from Cambodia and South Vietnam.

Ieng Sary's remarks are believed to be the first detailed public explanation of the Mayaguez incident by a Cambodian official.

Speaking before a friendly audience of peace group members, the Cambodian official said that he personally handled the Cambodian side of the affair.

The foreign minister, who was in New York to attend a special session of the U.N. General Assembly, defended the capture of the ship, saying: "The armed forces are workers. They saw the ship within six kilometers (3 miles) of the island and captured it without the leaders knowing it."

Ieng Sary did not deviate from the initial claim by the Cambodian government on May 14 that the ship was in his country's territorial waters when it was captured. He did say, however, that Cambodia did not want "to have any difficulty with the U.S. government."

Referring to the radio report, he said, "The American technology enabled them to bring us the information much faster than our own armed forces could."

About 130 representatives of various American and foreign anti-war groups attended the speech and reception given by the Group of Khmer Residents in America.

Ieng Sary said that, after hearing the broadcast, the leaders "got in touch" with the armed forces on the island and then called the head of the coastal naval base at Sihanoukville port, ordering him to come to Phnom Penh at once.

"He arrived at 2 p.m.," the foreign minister said. But he did not give the date. "He informed us of this affair and around 5 p.m. we ordered him back with the order to release the Mayaguez ship immediately."

Ieng Sary then said that the "bombs came down" and American troops attacked the island before the order could be carried out. He also added that "a lot of peasants" were wounded in the American bombing of Ream harbor.

In his considerably compressed version of the Cambodian strategy, Ieng Sary did not mention any of the numerous American attempts to contact the Phnom Penh leadership.

On May 12, when President Ford first heard of the capture, which he branded as "an act of piracy," he convened the National Security Council for a 45-minute session. Diplomatic efforts were then made to secure the release of the ship, according to official reports, but the new government, in power for less than one month, did not respond.

A spokesman for the Voice of America said that news of the ship's capture was broadcast shortly after it occurred.

It was more than 48 hours later, at 7:07 p.m., Washington time May 14, that American officials said they heard the first Cambodian announcement read over radio by Information Minister Hu Nim, saying the ship would be released. The American assault began at 6:30 p.m. Washington time, according to U.S. officials.

[From the New York Times, Sept. 9, 1975]

A CAMBODIAN VIEW OF MAYAGUEZ CASE—PHNOM PENH WAS NOT AWARE SHIP HAD BEEN SEIZED, DEPUTY PREMIER SAYS

(By Paul Hofmann)

Cambodian gunboats seized the American containership Mayaguez last May 12 without the knowledge of the Communist Government in Phnom Penh, according to Ieng Sary, the Cambodian Deputy Premier.

He said the authorities in Phnom Penh learned of the seizure "through American broadcasts, because the American technology is able to convey information much faster than our armed forces can."

He maintained that "a blood-bath" had been unnecessary, saying that the Phnom Penh Government had ordered the release of the ship and its crew but that American forces attacked while the release was being arranged.

Mr. Ieng Sary, who left the United States yesterday after a week's visit to the United Nations, gave this account here Saturday at a reception arranged at the Union Theological Seminary by a small group of Cambodians living in the United States.

According to a transcript of his remarks made available by Gareth Porter, director of the Indochina Resource Center in Washington, D.C., and George Hildebrand, an associate, Mr. Ieng Sary also explained that the forced evacuation of large numbers of people from Phnom Penh after the Communist

takeover of April 17 was dictated by a lack of food.

The Deputy Premier noted that the population of Phnom Penh had swollen in the last stage of the former Government to three million from two million. The new authorities, he said, carried out an evacuation "without bloodshed in a week" because the countryside offered some possibilities to feed the evacuees.

This version contrasted with reports soon after the Communist take-over, that the new rulers had begun a peasant revolution, forcing as many as three million or four million people out of Cambodia's cities to the countryside, to till the soil.

"I HANDLED THAT AFFAIR"

The Deputy Premier, who spoke in Cambodian, with an English translation provided by a leader of the Cambodian community here, Sok Hom Hing, an economist, gave his versions of the Mayagüez case and of the evacuation of Phnom Penh in reply to questions from the audience at the seminary, Broadway at 120th Street. The reception was attended by more than 100 members of groups that opposed the war in Indochina.

According to the transcript, Mr. Ieng Sary said of the Mayagüez crisis: "I handled that affair with my own hands."

He said the ship was sailing westward within six kilometers of the small Wai Islands when Cambodian forces, "in a spirit of revolutionary vigilance," captured her. American accounts at the time had said the ship was eight miles—which would be about 13 kilometers—off the island when seized.

"The leaders in Phnom Penh didn't know" of the seizure, Mr. Ieng Sary went on, praising the "vigilance" of the Cambodian soldiers, whom he described as "workers." He asserted that the armed forces knew that the Mayagüez was being "operated for information-gathering." The Deputy Premier said that, on learning of the incident, the authorities contacted the forces on the islands and their commander in Sihanoukville on the mainland, ordering him to report to Phnom Penh.

The commander, according to Mr. Ieng Sary, arrived in the capital at 2 P.M. on an unspecified day "and at 5 P.M. we ordered him back under instructions to release the Mayagüez immediately."

The day after her capture off the Wai Islands, the Mayagüez was moved to Tang Island, and the crew was put on fishing boats and eventually taken to Sihanoukville before being released.

While the release of the vessel was being arranged, the Deputy Premier said, the Americans bombed Tang Island—"bombed so hard that they thought everyone who had stayed on the island had been killed." However, according to Mr. Ieng Sary, Cambodian units held out and attacked the United States forces when they landed.

He asserted that orders had been given to release all captured Americans but that the United States forces bombed the island, Sihanoukville, the nearby mainland harbor of Ream, causing many casualties.

The Deputy Premier charged that "the CIA will continue to interfere in our problems" and that such activities by the Central Intelligence Agency were the reason why "we must continue to raise our vigilance."

Speaking of conditions in Phnom Penh, Mr. Ieng Sary said that before the capital's capture by the revolutionary forces the "imperialists," meaning the United States, had supplied 30,000 to 40,000 tons of food to the city every month. He asserted that, in the revolution's spirit of self-reliance, the authorities did not want to depend on any help from abroad, and so decided to "disperse" the capital's population.

Mr. McCLURE. Mr. President, I will not prolong this debate. I think it has been a very useful and constructive debate about what our policy is and about what our understanding is. But I should have known that when the very able Senator from Minnesota, and my good friend, started out by quoting narrow legalisms, that he was going to try to get us off the subject, and the Senator from Iowa, very aptly, replied by saying it is not the narrow language of the Gulf of Tonkin resolution that any of us are worried about in terms of the parallels; it is not even, in my mind, simply the question of timing and, to refresh the Senator's memory, I would say this debate started on the Gulf of Tonkin resolution on August 6. The Senate came in—that was on a Thursday, incidentally—and on Friday, August 7, 1964, the Senate came in at 10 a.m. and debated it until it concluded and voted on it at the end of 2 full days of debate on the floor, and it was not any more truncated a debate than the one we are enjoined here today.

As a matter of fact, if we want to look at the record—and the Senator from Wisconsin is exactly correct that he did try to get the Senate to adopt an amendment which would have limited the effect of the Gulf of Tonkin resolution, and that debate appears 50 pages later in the CONGRESSIONAL RECORD after the debate in which Senator Cooper and Senator Fulbright had the exchange in which Senator Fulbright said that the President of the United States could commit troops to a land war in Asia under the Gulf of Tonkin resolution.

But it is not my purpose to debate all of the facts, the rights or the wrongs, or who did what in regard to the Gulf of Tonkin resolution except to draw the parallel that some of those who voted for the Gulf of Tonkin resolution later found themselves unable or unwilling to live up to the commitment they made on August 7, 1964.

I do not want us to do that again. If we vote for this resolution let us clearly understand what its implications are and let us, as the Senator from Minnesota has said, have the guts to stand up for it later because there were some who found themselves short on that score later on, on the Vietnam question.

I hope when we get around to the question of the vote on this resolution and, consistent with our purposes to bring peace to the Middle East, we will have the courage to take some risks. I hope we will have the honesty to live up to the commitment made when we take those risks. I hope we are willing to pay some price, and I hope when it comes time to vote for the appropriations that are the price that we will vote that price.

Let us debate whether or not those prices and those risks are appropriate to the gains we will make, but let us not try to kid ourselves that somehow this formula has no risks in it. To equate it with the danger of walking out the front door is to demean the debate by attempting to belittle the size of the risks that are involved.

It has been said we can withdraw the people. Surely we could have withdrawn the people from Vietnam at any time. As a matter of fact, that was debated in the Gulf of Tonkin resolution. It is frightening how many parallels there are because they made the point that Congress could at any time vote by congressional resolution to stop our commitment to Vietnam.

What was the fact? It became politically and tactically impossible for Congress to do that for many, many, many long years.

We are going down a course that has some inexorable events that are predictable, and if we are going to go down that road let us say we are willing to face those.

I want to read again from that debate because I think again it is instructive, and I do it only because I think it lends some credence to the argument that we know where we are going. Again it was my senior colleague from Idaho who made these remarks:

> A country must live with the policy it adopts whether it is wise or foolish. We have adopted the policy.

He said:

> So, Mr. President, we must accept the consequences of our own actions. We must now face the fact that the difficulties in which we find ourselves are our responsibility in having chosen to pursue a course of action which exposed us to such hazards.

What are the hazards? It is said we can get these men out. The Senator from Kansas indicated that all they have to do is call a cab if there is no conflict at that particular time. I would suggest the Senator from Kansas has not been in the Mitla and Giddi Passes, and cabs are quite some distance away. But the point he makes if there is no conflict it is easy to get them out is very true. But it was also mentioned by another Senator on the floor that if the tension begins to grow and the likelihood of an outburst of any kind of conflict becomes greater, it becomes correspondingly impossible to withdraw the observers, because that would send the wrong signal at the very worst time possible, and so, as the tensions build and the likelihood of hostilities becomes greater, our ability to withdraw the technicians becomes correspondingly smaller, until the point where it becomes absolutely impossible to withdraw the observers until the beginning of conflict.

What happens if the conflict actually does break out, how long does it take before our observers, our technicians, our American, U.S. civilian personnel are in the thick of the conflict? Look at the map. Look at the little area carved out of the Israeli frontline in which to place these. Look at the distance from the Egyptian lines where they would be, and you would have to know, if you know anything at all, it will be a matter of only minutes or, at the very most, 2 or 3 hours until they would be involved in the midst of the fighting.

What are our options in that period of time? Our options are very limited. They do not indicate, as my friend from Kansas facetiously indicated, the possibility of calling a cab. It does not even, in my judgment, necessarily yield itself to the safe extrication of these people by sending helicopters in from some

naval force in the Mediterranean; nor can we rely, as some would have us say that we can, on the offices of the United Nations to get our observers and technicians out by the route of the U.N. forces. So I think we must face up to the likelihood if there is an outbreak of hostilities—and I hope there is not, but if there is an outbreak of hostilities—our men will be in the midst of it, and then what is our response? Is our response to abandon them? Is our response to be, as the Senator from Wisconsin would have us say, they would be safe because they will be in somebody else's prison as the men of the *Mayaguez* were? Or is our response going to be what the President of the United States did under the War Powers Act and as he could do under the amendment offered by the Senator from Minnesota, send troops in to get our people out.

That is what we are confronted with today. That is the issue presented by my substitute for the Humphrey amendment. That is the issue that this Senate must vote on. I do not want any Senator anywhere at any time to say he did not understand it. If he votes against this amendment he cannot say that he does not want troops sent in because if he votes against this amendment he is saying he does want troops sent in, and I think there is absolutely no equivocation on that point. The only question is what is the result then of having sent troops in.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator's time has now expired.

Mr. McCLURE. I thank the Presiding Officer.

Mr. HUMPHREY. Mr. President, I yield the remainder of my time on this side to Senator CASE.

The PRESIDING OFFICER. The Senator from New Jersey has 2 minutes.

Mr. CASE. Mr. President, it is not necessary to support the Senator from Minnesota. I have not heard many speeches more eloquent; in fact, I never heard any more eloquent; and beyond that, more filled with wisdom and the fruit of experience.

I underscore only one or two points. The first point I want to underscore is that we are not going in here as a volunteer. The United States is going in, as we emphasized again and again, and I wish to underscore myself, at the request of the parties. Israel and Egypt said to us, "Please help us make peace, please help us make peace."

Will we say to them, "No, we will not help you make peace"

That is the question, Mr. President, on the broad issue of our participation in this limited peacekeeping mission.

The broad question comes up in the debate on this amendment, properly so, because the amendment is not offered for its own sake. It is offered to raise the main question.

But I do point out this, in my final word on the amendment itself, whether one is against or for this resolution one would certainly vote against this amendment because it introduces a strange, an unnatural, a repulsive concept into the relations between the U.S. Government and its citizens who are carrying out a mission for the peace of the world.

I yield back the remainder of my time.

Mr. HUMPHREY. Mr. President, I now move to table the amendment in the nature of a substitute by the distinguished Senator from Idaho.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Minnesota. The yeas and nays have been ordered and the clerk will call the roll.

The legisvlative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. McGEE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I also announce that the Senator from Michigan (Mr. HART) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Nevada (Mr. LAXALT) is necessarily absent.

The result was announced—yeas 68, nays 25, as follows:

[Rollcall Vote No. 436 Leg.]

YEAS—68

Allen	Fong	Mondale
Baker	Ford	Montoya
Bartlett	Garn	Moss
Beall	Glenn	Pastore
Bellmon	Goldwater	Pell
Bentsen	Gravel	Percy
Brock	Griffin	Ribicoff
Brooke	Hansen	Roth
Buckley	Hart, Gary W.	Schweiker
Bumpers	Hartke	Scott, Hugh
Byrd, Harry F., Jr.	Haskell	Stafford
	Hruska	Stennis
Byrd, Robert C.	Huddleston	Stevens
Case	Humphrey	Stevenson
Chiles	Jackson	Stone
Church	Javits	Symington
Culver	Johnston	Taft
Curtis	Kennedy	Thurmond
Dole	Leahy	Tower
Domenici	Long	Tunney
Durkin	Mathias	Weicker
Eagleton	McClellan	Williams
Eastland	McIntyre	Young

NAYS—25

Abourezk	Hollings	Nunn
Biden	Magnuson	Packwood
Burdick	Mansfield	Pearson
Clark	McClure	Proxmire
Cranston	McGovern	Randolph
Fannin	Metcalf	Scott, William L.
Hatfield	Morgan	
Hathaway	Muskie	Talmadge
Helms	Nelson	

NOT VOTING—7

Bayh	Inouye	Sparkman
Cannon	Laxalt	
Hart, Philip A.	McGee	

So the motion to lay on the table was agreed to.

Mr. CASE. Mr. President, I move to reconsider the vote by which the motion to table the amendment was agreed to.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment.

The amendment was agreed to.

Mr. CASE. I move to reconsider the vote by which the amendment was agreed to.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, will the Senator yield for action on a concurrent resolution?

Mr. HUMPHREY. I yield the Senator 1 minute.

ADJOURNMENT OF THE TWO HOUSES OVER THE COLUMBUS DAY HOLIDAY

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 424.

The PRESIDING OFFICER (Mr. DURKIN). The Chair lays before the Senate House Concurrent Resolution 424, which the clerk will state.

The assistant legislative clerk read as follows:

H. CON. RES 424

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Thursday, October 9, 1975, they stand adjourned until 12 o'clock meridian, Monday, October 20, 1975.

SEC. 2. The Speaker of the House of Representatives and the President pro tempore of the Senate shall notify the Members of the House and Senate, respectively, to reassemble whenever in their opinion the public interest shall warrant it or whenever the majority leader of the House and the majority leader of the Senate, acting jointly, or the minority leader of the House and the minority leader of the Senate, acting jointly, file a written request with the Clerk of the House and the Secretary of the Senate that the Congress reassemble for the consideration of legislation.

SEC. 3. During the adjournment of both Houses of Congress as provided in section 1, the Clerk of the House and the Secretary of the Senate, respectively, be, and they hereby are, authorized to receive messages, including veto messages, from the President of the United States.

Mr. MANSFIELD. I ask unanimous consent that the Senate proceed to the consideration of the concurrent resolution.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. MANSFIELD. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Strike out Sec. 1 of the Resolution and insert:

That when the House adjourns on Thursday, October 9, 1975, and when the Senate first adjourns after the final disposition of H.J. Res. 683, they stand adjourned until 12 o'clock meridian Monday, October 20, 1975, or until 12 o'clock meridian on the second day after their respective Members are notified to reassemble in accordance with section 2 of this resolution, whichever event first occurs.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. MANSFIELD. In other words, Mr. President, the Senate will not adjourn in accordance with what the House is contemplating doing until and unless the Sinai resolution is finally disposed of.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. PERCY. I would like to ask a question of the majority leader as to what his judgment is as to what our position is going to be now. We will stay in session until we finish this. There are material differences between our version and the House version. Will there be a conference after that?

Mr. MANSFIELD. I doubt very much that there will be a conference next week, but I believe there will be the week following.

Mr. ABOUREZK. Mr. President, will the majority leader use his microphone, so we can all hear?

Mr. MANSFIELD. Unless, of course, the conferees come back, which would not do them much good, because it would take a majority of the House to dispose of any amendment agreed to in conference.

Mr. ABOUREZK. What is the motion made by the majority leader?

Mr. MANSFIELD. The motion is to adjourn, and do so on the basis of completing work on the Sinai agreement now under consideration.

Mr. ABOUREZK. Was it the majority leader's statement that we could not have a conference on this Sinai agreement in any event?

Mr. MANSFIELD. I said it was highly doubtful, because the House will go out tonight. We will go out, hopefully, tomorrow or Saturday, or Monday or Tuesday of next week. I said it would be possible if the conferees came back, but they could not accomplish too much because they would have to wait for final disposition by the House and the Senate.

Mr. ABOUREZK. So the agreement would still lay over for another week in any event; is that correct?

Mr. MANSFIELD. It all depends. This is a pro forma procedure which is usually acceded to, and I think the distinguished Senator from South Dakota was one of those who were most interested in the schedule the leadership was trying to follow at the time.

Mr. CURTIS. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. Yes.

Mr. CURTIS. By completing work on the Sinai matter, the Senator means completion by the Senate?

Mr. MANSFIELD. That is correct.

Mr. CURTIS. And not completion of the conference.

Mr. RANDOLPH. Mr. President, reserving the right to object, would the majority leader tell me when he feels we might have a final vote on Sinai?

Mr. MANSFIELD. We have the unanimous-consent agreement to vote not later than 4 o'clock tomorrow afternoon.

Mr. RANDOLPH. Would he think we could perhaps finish before that hour?

Mr. MANSFIELD. Yes, indeed.

Mr. ABOUREZK. Mr. President, was it the request of the majority leader that the adjournment would take place upon completion of the work on the House Sinai agreement?

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ABOUREZK. Just a minute.

Mr. MANSFIELD. All right, I will withhold it.

Mr. ABOUREZK. I object to the unanimous-consent request.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. It is not a unanimous-consent request. There is an amendment pending. The yeas and nays have been requested. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana to House Concurrent Resolution 424. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I also announce that the Senator from Michigan (Mr. HART) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The result was announced—yeas 86, nays 5, as follows:

[Rollcall Vote No. 437 Leg.]

YEAS—86

Bartlett	Hansen	Muskie
Beall	Hart, Gary W.	Nelson
Bellmon	Hartke	Nunn
Bentsen	Haskell	Packwood
Biden	Hatfield	Pastore
Brock	Hathaway	Pearson
Brooke	Helms	Pell
Buckley	Hollings	Percy
Bumpers	Hruska	Proxmire
Burdick	Huddleston	Randolph
Byrd, Robert C.	Humphrey	Ribicoff
Case	Jackson	Roth
Chiles	Javits	Schweiker
Church	Johnston	Scott, Hugh
Clark	Kennedy	Scott, William L.
Cranston	Laxalt	Stafford
Culver	Leahy	Stennis
Curtis	Long	Stevens
Dole	Magnuson	Stevenson
Domenici	Mansfield	Stone
Eagleton	Mathias	Symington
Eastland	McClure	Taft
Fannin	McGovern	Talmadge
Fong	McIntyre	Thurmond
Ford	Metcalf	Tower
Garn	Mondale	Tunney
Goldwater	Montoya	Williams
Gravel	Morgan	Young
Griffin	Moss	

NAYS—5

Abourezk	Durkin	Weicker
Allen	Glenn	

NOT VOTING—9

Baker	Cannon	McGee
Bayh	Hart, Philip A.	Sparkman
Byrd, Harry F., Jr.	Inouye	
	McClellan	

So Mr. MANSFIELD's amendment was agreed to.

Mr. HUMPHREY. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on agreeing to the resolution, as amended.

Without objection, the resolution, as amended, is agreed to, as follows:

H. CON. RES. 424

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, October 9, 1975, and when the Senate first adjourns after the final disposition of H.J. Res. 683, they stand adjourned until 12 o'clock meridian, Monday, October 20, 1975, or until 12 o'clock meridian on the second day after their respective Members are notified to reassemble in accordance with section 2 of this resolution, whichever event first occurs.

SEC. 2. The Speaker of the House of Representatives and the President pro tempore of the Senate shall notify the Members of the House and the Senate, respectively, to reassemble whenever in their opinion the public interest shall warrant it or whenever the majority leader of the House and the majority leader of the Senate, acting jointly, or the minority leader of the House and the minority leader of the Senate, acting jointly, file a written request with the Clerk of the House and the Secretary of the Senate that the Congress reassemble for the consideration of legislation.

SEC. 3. During the adjournment of both Houses of Congress as provided in section 1, the Clerk of the House and the Secretary of the Senate, respectively, be, and they hereby are, authorized to receive messages, including veto messages from the President of the United States.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SINAI EARLY WARNING SYSTEM

The Senate continued with the consideration of the joint resolution (S.J. Res. 138) to implement the U.S. proposal for the early warning system in Sinai.

Mr. HUMPHREY. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question recurs on the motion of the Senator from South Dakota to recommit.

Who yields time?

Mr. ABOUREZK. Mr. President, for the information of the Senate, last night I made the motion to recommit; and under an agreement, we were to bring it up today. We have had the intervening amendments by further agreement. I want to debate briefly the motion to recommit and the reasons why I am making the motion.

Mr. HUMPHREY. How much time is there on this motion?

Mr. ABOUREZK. I have 1 hour.

The reason why I have made the motion to recommit is that the Sinai agreement has been submitted as a resolution, which requires a simple majority in

both Houses. That is the way it has been brought up. It was not really necessary to do it that way. But I believe that the agreements contained in the Sinai resolution constitute agreements of sufficient magnitude and sufficient commitment on the part of the United States that it should be made into a treaty.

The motion to recommit is made so that if the Sinai resolution is passed, it will go back to the Committee on Foreign Relations, with the hope—on my part, at least—that the Foreign Relations Committee will require the administration to submit it as a treaty, so that it could be debated as a treaty, considered as a treaty, and voted upon as a treaty.

The obligations we are undertaking in this Sinai agreement are of tremendous magnitude. The debate this morning brought out a great deal of those commitments and what they mean in their interpretation.

I do not think there is any question that if we approve the Sinai agreement and we place 200 American technicians in the Sinai and something happens, we are going to send troops in to protect them. I think that was conceded by many Members who are supporting the Humphrey amendment and who oppose the McClure amendment and the Abourezk amendment.

Second, as the distinguished majority leader has said, we cannot separate the 200 technician portion of the agreements from the other commitments that were made and were called separate agreements by the Secretary of State.

There is no way to separate them, in spite of what he says, that they stand or fall on their own.

Once the resolution we are considering today is passed, I cannot conceive of Congress denying Israel military aid in the amount Israel requests, following the approval of this resolution. If we tried to do that—Senators must understand that this is hypothetical—if we tried to deny Israel the military aid agreed upon in the other portions of the agreement, there would be an outcry on the part of everybody involved that we were breaking our commitments, even though today we are being told that we have no other commitments.

So I think that these agreements that bind the United States to heavy involvement in the Middle East, that bring us to a potential nuclear showdown, nuclear confrontation, with Russia, must of necessity be submitted as a treaty and debated and voted on as such.

I reserve the remainder of my time.

Mr. JAVITS. I yield myself 3 minutes.

Mr. President, I believe that the arguments which have been made on the amendments this morning, though not particularly relevant to those amendments, very adequately set forth the situation and dealt with the problems which are raised by Senator ABOUREZK's motion to recommit. I am very pleased that he has defined clearly that his purpose is to require that this particular submittal be a treaty.

This is a question in American constitutional law that is by no means novel. Whether or not the President will submit whatever he calls it—an agreement or a treaty or any other document—for consideration by the Senate as a treaty is his prerogative, and the reason is this: So far as we are concerned, we are not in anyway committing the United States in terms of paramount law, a treaty being the only law that can be passed that is equal to the Constitution, insofar as it affects domestic problems; but normally the treaty is so imprecise in that regard, or just states general principles, that it must be implemented by domestic law.

However, conceivably, a treaty could be so specific as to be law, in which case it would be paramount. If the President does not submit it as a treaty, then it has no force of law whatever. If the President claims, as he does in this case, that it is an agreement by him, then, except as Congress passes on it, either by what we are doing today in some specific detail, such as the 200 technicians, or as a treaty, it has no force—and I am now trying to separate the word "law" from the words "force or effect."

It has no force or effect except as to this particular President, who has pledged his good faith to do this, that, and the other thing. There is no court in which he can be sued, and there is no international tribunal in which he can be arraigned. If he is satisfied that what he has done is effective enough for his purposes and for the purposes of our country to simply have his signature on it, it is very hard for us to complain because no law is involved. There is only a law if we pass a law or if we ratify a treaty.

Therefore, in American practice, it has been in the province of the President as to whether he would or would not submit something as a treaty. The President has not chosen to submit this as a treaty. Indeed, he has only chosen to submit one thing here, which is the matter of the 200 technicians. As to everything else—this has been argued very hotly, and I am sure it was argued in respect of the previous amendments—they are simply undertakings which he makes for himself, as the President of the United States.

We have analyzed the situation as to his authority or power to do the things he says he is going to do.

The general feeling that I have, but it is based partly upon the legal memoranda of the State Department and also upon my own review of the documents, is that the only thing that he undertakes to do which is operative is to deal with the oil question. That is No. 3 in the memorandum which is one of the four major documents involved here, which has been put on every Senator's desk.

There, the authority is claimed to be a statutory authority, based upon laws of the United States already in existence. Insofar as it requires payment of money, the administration makes it very clear that it has no money to pay, that if it wants money for those purposes, it will seek an authorization and appropriation through the proper action of Congress.

Under those circumstances, Mr. President, I do not see how a recommittal of this measure to the Committee on Foreign Relations will do anything but cause us to meet on one day, hear what I have just stated to the Senate, and return the measure for 200 technicians to the Senate, just where we have it today. Mr. President, I see nothing in this but an interval of time to no purpose whatever. Therefore, I believe the motion should be rejected.

Mr. CLARK. Will the Senator from New York yield for a question?

Mr. JAVITS. Yes. I yield myself 2 more minutes.

Mr. CLARK. It is my interpretation of what the Senator just said that Executive agreements have no standing beyond the present administration—the administration that makes it.

Mr. JAVITS. I would not say that, I say to the Senator, for this reason: Succeeding Presidents could be bound to do what this particular President says he will do and impliedly says Presidents that follow him will do. But I see no obligation in the law to that effect. In other words, as I said before, I do not know what court he could be sued in or what international forum in which he could be arraigned. But our country is a noble country. I should believe that unless there were some very, very strong and persuasive reasons to the contrary, a successor to President Ford would feel that he should do what President Ford said he would do.

That, I am arguing, does not constitute a treaty or the law of the United States. If the Senator will recall our argument in the committee which paralleled this one, if the President of the United States has a right—and I believe he does—to say he will consult, he will recommend, he will study, he will use his best efforts with other countries, many of the things, most of the things which are contained in this memorandum—that is fine. We can have no complaint about that. The reason for the Case commitment resolution, and I was very much a party to it, was that Senator CASE believed that executive agreements had been entered into, and we had a lot of evidence on that, which said the President would do X, Y, or Z, and we never knew about it. That was the thing.

I come to the last point, which is a credible one. Suppose a President enters into an Executive agreement which we think is ultra vires—in other words, what we think he can do himself. We have a perfect right not only to complain about it publicly, but to pass a sense of the Senate resolution, serving notice on the President that we believe he has no such authority as he says he is going to assert in his Executive agreement. That, I think, is a perfectly permissible thing.

Also, we may take a substantive position against something we think the President should not do. For example, the President, in this memorandum, says, "I am going to do certain things about oil and I base my authority upon this law." We can repeal that law, we can amend that law, and just sweep the ground out from under his feet. It does not have to remain there. So there is a serious purpose about our knowledgeability about the executive agreement.

Mr. CLARK. Is the position of the Senator from New York that Mr. Monroe

Leigh, legal adviser to the State Department, in his letter of September 18 that has been referred to a number of times, is accurate in identifying these memorandums of agreement as executive agreements? Are they executive agreements, in the Senator's judgment?

Mr. JAVITS. I prefer not to deal with that question, because, in substance, they have sent them to us and, therefore, I have a right to consider that they have sent them to us under the Case Act. I do not want to preempt the attitude of Secretary Kissinger, who seemed to have some difference with the counsel in the State Department about how those were to be designated. I do not wish to get into that, except to say that I am glad they did send them. I am glad that, even with Kissinger's reservations, they decided the question substantively, rather than what might be the technical words of the Case commitment resolution.

I have already volunteered, which one should never do, to Senator Clark, whose good faith I hold in the highest respect—I wish him to know that, and the same with my colleagues, Senator ABOUREZK and Senator BIDEN—what the Senate could do, just to demonstrate, and I do not want to get into a discussion on what is or is not an executive agreement.

Mr. CLARK. Will the Senator yield 10 minutes?

Mr. ABOUREZK. How much time do I have on this resolution?

The PRESIDING OFFICER. The Senator has 54 minutes remaining.

Mr. ABOUREZK. I yield 14 minutes to the Senator from Iowa.

Mr. CLARK. I thank the Senator.

Mr. President, I can say in all honesty that I do not know how I am going to vote on this recommittal motion. On the one hand, I tend to feel, with great reluctance, that it may be necessary to send the 200 technicians to the Middle East. Nevertheless, I think the argument that the Senator from South Dakota makes, that this should be sent to the Senate as a treaty, makes eminently good sense. I must say that we do not stand alone in that respect. It is my recollection that virtually every professional witness that came before our committee testified exactly the same way. That testimony can stand for anyone to read.

It is my recollection, also, that as one looks—in fact, if I may turn to it—at the State Department's own criteria for what constitutes a treaty—and I have them before me—one would have to conclude that the nature and the seriousness of these matters that are being brought before Congress, that are being given to Congress to look at—not to pass on—the so-called memorandums of agreements, do indeed meet the State Department's own criteria as a treaty.

Let me read this first criterion to distinguish between an executive agreement and a treaty. This comes from Foreign Affairs manual, S. 721.3, dated October 25, 1974.

> The extent to which the agreement involves commitments or risks affecting the Nation as a whole.
>
> The seriousness, in other words, of the commitment.

This body, in the last several years—certainly the last 2 or 3 years—has taken the theoretical position, as the Committee on Foreign Relations has, over and over again, that we have too many executive agreements, that we ought to insist that when legal commitments, binding commitments of the United States, are made, they ought to be sent up here as treaties. I think the major single criterion is the seriousness of the nature of that commitment.

What, in fact, has happened? We have found, year after year, that the Senate allows the President of the United States—not just this President, but Presidents back for some time—to take the most serious matters in terms of commitments and write them as executive agreements and send up to us treaties that are of much, much less significance.

Let me quote some of those that have, in the last few months or years, come up. I am speaking here from the executive calendar of the 94th Congress, dated September 30, 1975. Here are the treaties that this body is allowed to advise and consent on. I am not saying they are inappropriate, but compare them to this agreement that is before us today, the associated agreements in the so-called memoranda of agreement with Israel and Egypt. Here are the things that we are asked to talk about. Here are the things in which the Senate is being asked to advise and consent.

June 15, 1972, International Convention on Tonnage Measurement of Ships, signed for the United States at London, June 23, 1969.

Customs Convention on Containers, 1972; International Convention for Safe Containers, both signed at Geneva on September 5, 1972.

Again, more recently, just to take a look at three of the last five that the Senate has been asked to ratify:

Protocol for the Continuation in Force of the International Coffee Agreement of 1968 as extended, adopted September 26, 1974.

Again, partial revision of the Radio Regulations, with the final protocol signed at Geneva June 8, 1974.

The very last one that this distinguished body considered: Agreement between the Government of the United States of America and the Government of the Federated Republic of Brazil concerning shrimp, signed at Brasilia, March 14, 1975. That is the kind of agreement that this body is asked to pass on to advise and consent. But agreements which, in my judgment, could go so far as to involve the Armed Forces of the United States do not qualify as treaties. Those are not treaties.

I happen to disagree with the idea that it is up to the President to decide which of these are to come before this body as treaties and which as Executive agreements. I think this body has to make that decision for itself. The President has the choice as to what he wants to send up, but we have the choice as to what we want to accept.

I cannot, for the life of me, understand why the commitments that are contained here, which the State Department has identified as legally binding commitments on the United States in six of the several cases, should not be determined to be, would not fit under the criteria of, a treaty.

I frankly have heard very few people in this body or in the Foreign Relations Committee make the case that somehow these are not of a significant nature or not of a nature, in light of other criteria, that the Senate indeed should not advise and consent on them.

Senator Sam Ervin, who did a considerable amount of study on this subject of executive agreements and treaties, points out in hearings he held last year the trends that have taken place, that the Senate indeed has allowed to take place, with regard to treaties and Executive agreements.

If I may quote from the U.S. Government Printing Office document on Hearings Before the Subcommittee on Separation of Powers of the Committee on the Judiciary, U.S. Senate, 92d Congress, he makes the following points:

> The trend toward using executive agreements rather than treaties has accelerated in recent years. In 1930 the United States concluded 25 treaties and only nine executive agreements. In 1968, however, the United States concluded 16 treaties and 266 executive agreements. But by January 1 of 1972, 947 treaties and 4,359 executive agreements were in force for the United States.

That is the trend, and we see the nature of the treaties that are being sent up before this body to consider, and yet theoretically we say over and over again we ought not to allow it to happen; we ought to insist that significant agreements get the advice and consent of the Senate.

Here is just one more example, just one more excellent example. We are committing ourselves to legally binding commitments, in the opinion of the Secretary or State or his legal adviser in a memorandum which the people of this country are not even allowed to see, and yet we say, no, let them go through. They really are only executive agreements.

Now, what is an executive agreement in relation to a treaty in terms of how binding it is? In my judgment it is just as binding in international law as a treaty.

I would like to cite some evidence of that. In other words, the case that I would like to present to the Senate is that in international law executive agreements have the same standing as treaties, and when we pass this particular measure with respect to the 200 technicians, the measure that is before us, the joint resolution on 200 technicians, that will trigger the signing of these agreements which will have all the force in international law of a treaty. Now, that is what we really are talking about here. Let no one be mistaken about the fact that it will trigger the signing. These two documents, the joint resolution before us and the secret memorandum of agreement, are inextricably tied.

Let me read the legal adviser's opinion on this, Monroe Leigh, Secretary Kissinger's legal adviser. Here is what he says:

You know, these two documents were initialed in Israel on September 1.

Speaking of the memorandum of agreement—

It was understood on both sides that the memorandum of agreement would not come into force until signed by representatives of the two governments, and that no such signing would take place until the Congress acted on the proposal.

When we act on this proposal, the Secretary of State, on behalf of our Government, will sign them and, in my judgment, they will have all the force of a treaty on which this body has not been given the right to advise and consent.

Now, why do I say that they would have all the force in international law of a treaty? In my judgment, the State Department itself recognized that each is equally binding and obligatory. In a letter to Secretary of Defense Johnson on January 17, 1950, Under Secretary of State Webb stated as follows:

In international law, treaties and executive agreements both constitute equally binding obligations on the nation.

It could not be much clearer.

This is from the Digest of International Law. All available evidence, Mr. President, indicates that the conclusion of the Department of State is beyond challenge. The 1969 Vienna Convention on the Law of Treaties defines the term "treaty" to include executive agreements, and makes no distinction between the two. Let me quote:

Treaties mean an international agreement concluded between states in written form and governed by international law whether they are embodied in a single instrument or in 2 or more related instruments and whatever its particular designation.

Continuing to quote:

The provisions of paragraph 1 regarding the use of terms in the present convention are without prejudice to the use of those terms or to the meaning which may be given to them in the internal law of any State.

Now, the International Law Commission commented on this definition of a treaty as follows. Here is the third authority:

The juridical differences, insofar as they really exist at all, between formal treaties and treaties in simplified form, lie almost exclusively in the method of conclusion and entry into force. The law relating to such matters as validity, operation and effect, execution and enforcement, interpretation and termination applies to all classes of international agreements. The use of the term "treaty" as a generic term embraces all kinds of international agreements in written form and is accepted by the majority of jurists.

This is from the Yearbook of International Law Commissions. One could go on and on.

In the Harvard Review on International Law it concluded as follows:

The distinction between the so-called executive agreements and treaties is purely a constitutional one and has no international significance.

I have to conclude from that, Mr. President, it is the opinion of all of the authorities I have cited plus, I believe, virtually every public witness who came before our committee, that these should be sent up as a treaty. We may or may not want to accept them, but the Senate ought to insist, it seems to me, that they have the advice and consent of the Senate, that they be considered. As it is now, we have no consideration at all over these legally binding commitments that are going to go into force as soon as we pass, Congress passes, on these 200 technicians.

Mr. President, I yield back my time.

Mr. ABOUREZK. I want to thank the Senator from Iowa for that very erudite exposition on the law and the facts on this question of treaties.

Mr. President, the State Department, as the Senator from Iowa said, has time and again defined treaties to encompass what we are considering here today.

I want to read a quotation from the Assistant Secretary of State in 1939 that is quoted in the Columbia Law Review, volume 59, page 751:

International agreements involving political issues or changes of national policy and those involving international arrangements of a permanent character usually take the form of treaties. But international agreements embodying adjustments of detail carrying out well-established national policies and traditions and those involving arrangements of a more or less temporary nature usually take the form of executive agreements.

Time and again, the State Department has identified an agreement such as we are considering here today and the attendant agreements that were kept secret from the public so long as statements which would constitute a treaty.

I agree that I do not believe the President or the Secretary of State ought to be allowed to define on their own terms what a treaty is or what an Executive agreement is. I believe that should be up to the Senate and not to the Executive.

I reserve the remainder of my time.

Mr. President, I would like to say one thing, I would like to get the yeas and nays on this motion.

The PRESIDING OFFICER. The yeas and nays were ordered last night.

Mr. ABOUREZK. Pardon?

The PRESIDING OFFICER. They were ordered last night.

Mr. ABOUREZK. That is right, we did, and I am ready.

The PRESIDING OFFICER. Who yields time?

Mr. CASE. Mr. President, I know of no reason why the time cannot be yielded back on this, it is fine, we agreed that by 2 o'clock we would be protected, and we will be now.

May I ask how long the vote will take, what is the time limit?

The PRESIDING OFFICER. Fifteen minutes.

Mr. CASE. I yield back the time on our side.

Mr. ABOUREZK. Under the order, I am entitled to use the remainder of my time on other amendments. Is that not correct?

The PRESIDING OFFICER. Not the remainder of time on this motion, but the Senator has 206 minutes remaining under the order.

Mr. ABOUREZK. I yield back the remainder of my time on this motion, I am ready for a vote.

Mr. CASE. Is this up or down, or tabling?

The PRESIDING OFFICER. Up or down.

Mr. CASE. It is the Senator's motion to recommit?

The PRESIDING OFFICER. The question is on agreeing to the motion to recommit of the Senator from South Dakota. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), and the Senator from Alabama (Mr. SPARKMAN), are necessarily absent.

I also announce that the Senator from Michigan (Mr. HART), is absent because of illness.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), would vote "nay."

The result was announced—yeas 9, nays 85, as follows:

[Rollcall Vote No. 438 Leg.]

YEAS—9

Abourezk	Helms	Scott, William L.
Biden	Hollings	Stevenson
Curtis	McClure	
Durkin		

NAYS—85

Allen	Goldwater	Moss
Baker	Gravel	Muskie
Bartlett	Griffin	Nelson
Beall	Hansen	Nunn
Bellmon	Hart, Gary W.	Packwood
Bentsen	Hartke	Pastore
Brock	Haskell	Pearson
Brooke	Hatfield	Pell
Buckley	Hathaway	Percy
Bumpers	Hruska	Proxmire
Burdick	Huddleston	Randolph
Byrd, Harry F., Jr.	Humphrey	Ribicoff
Byrd, Robert C.	Jackson	Roth
Case	Javits	Schweiker
Chiles	Johnston	Scott, Hugh
Church	Kennedy	Stafford
Clark	Laxalt	Stennis
Cranston	Leahy	Stevens
Culver	Long	Stone
Dole	Magnuson	Symington
Domenici	Mansfield	Taft
Eagleton	Mathias	Talmadge
Eastland	McClellan	Thurmond
Fannin	McGovern	Tower
Fong	McIntyre	Tunney
Ford	Metcalf	Weicker
Garn	Mondale	Williams
Glenn	Montoya	Young
	Morgan	

NOT VOTING—6

Bayh	Hart, Philip A.	McGee
Cannon	Inouye	Sparkman

So the motion to recommit was rejected.

The PRESIDING OFFICER. The Senator from Iowa.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, will the Senator from Iowa yield for a unanimous-consent request?

Mr. CLARK. I yield to the Senator from Massachusetts, and then to the Senator from West Virginia.

Mr. KENNEDY. I ask unanimous consent that Mr. Ginsburg, a member of the staff, be accorded the privilege of the floor during the consideration of this matter.

The PRESIDING OFFICER (Mr. HELMS). Without objection, it is so ordered.

Mr. CLARK. I yield to the Senator from West Virginia.

SENATOR PROXMIRE BREAKS HIS RECORD

Mr. ROBERT C. BYRD. Mr. President, the distinguished senior Senator from Wisconsin (Mr. PROXMIRE) has just cast his 4,000th consecutive vote. He had previously held the record of 3,000 consecutive votes. He had held the record of 3,001 consecutive votes. He had held the record of 3,002 consecutive votes. He had held the record of 3,050 consecutive votes. He had held the record of 3,500 consecutive votes. He had held the record of 3,999 consecutive votes; and today he again broke his own record. On the rollcall just finished, in fact, he has broken all of his previous records by casting his 4,000th consecutive rollcall vote. He has answered more consecutive rollcall votes than has any other Senator in the history of this body.

Mr. President, I think this meticulous attention to his duties indicates the sensitivity of conscience, the independence of mind, and the supreme dedication to his constituents that Senator PROXMIRE has always demonstrated to all of us. I personally congratulate him, and I feel that it is a great credit to the Senate that a Member would cast so many consecutive rollcall votes without an absence. I would certainly hope, and I daresay there is a pretty good chance, that this record will never be equaled, certainly not in the lifetime of any of us here, and possibly not in this century.

I salute the distinguished Senator from Wisconsin (Mr. PROXMIRE) in absentia, he not being at his desk. [Laughter.]

Mr. PERCY. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. The Senator from Iowa has the floor.

Mr. PERCY. Would it be possible for the Senator to yield for half a second, for a commentary?

Mr. CLARK. I yield.

Mr. PERCY. I would like to register my objection to the record attained by our distinguished colleague from Wisconsin (Mr. PROXMIRE). It is bad enough to have had him make me feel like a sluggard, as I pass him every day as he is running to the Senate and I am driving by in my automobile; but to have him also outdistance the rest of us on consecutive rollcall votes, and by such a distance, is insufferable. I think he ought to take that into account as he goes for number 5,000.

Mr. ROBERT C. BYRD. Perhaps the Senator from Wisconsin will consider the Senator's objection.

SINAI EARLY WARNING SYSTEM

The Senate continued with the consideration of the joint resolution—Senate Joint Resolution 138—to implement the United States proposal for the early-warning system in Sinai.

Mr. CLARK. I yield to the Senator from California.

PRIVILEGE OF THE FLOOR

Mr. CRANSTON. Mr. President, I ask unanimous consent that Chris Cohagen, a member of my staff, may have the privilege of the floor during the consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. Mr. President, I ask unanimous consent that Andy Loewi, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. I yield to the Senator from Colorado.

Mr. HASKELL. Mr. President, I ask unanimous consent that John Cevette be accorded the privilege of the floor during the consideration of the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. I yield to the Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent that Wes Barthelmes and Miss Dale Lewis of my staff be granted floor privileges during the consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa (Mr. CLARK), for himself and others, proposes an amendment as follows:

At the end of the joint resolution add the following new section:

SEC. 6. (a) For the purposes of Rule XXXVI of the Standing Rules of the Senate, it is the sense of the Senate that leave of the Senate is granted that the "Legal Memorandum" transmitted in connection with the letter of October 6, 1976, of Monroe Leigh, Legal Adviser, Department of State, to Honorable John J. Sparkman shall no longer be considered confidential.

(b) The provisions of this section may not be construed as indicating agreement or disagreement on the part of the Senate or any Member thereof with respect to anything contained in such Memorandum.

Mr. CLARK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CLARK. With regard to the time, it is my understanding that I have 60 minutes, and that Senators HUMPHREY and CASE have 30 minutes. Is that correct?

The PRESIDING OFFICER. That is the Chair's understanding, but let me check to be sure.

That is correct.

Mr. BIDEN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BIDEN. It is my understanding that according to the unanimous-consent agreement, the Senator from Colorado (Mr. HASKELL) and I would each be allotted an hour on this amendment also. We had indicated that there would be three amendments we would be calling up, which we would attempt to merge. This is one of the amendments that has been merged. I do not intend to take anywhere near a full hour, but I want a clarification as to whether that is the understanding of the Chair.

The PRESIDING OFFICER. The Chair is advised that the Senator from Delaware, indeed, has an hour, but there is no provision for the Senator from Colorado.

Mr. HASKELL. Mr. President, I had understood the unanimous-consent agreement of yesterday evening provided the Senator from Colorado an hour to be used on an amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. HASKELL. Well, that amendment has been merged with the amendment of the Senator from Delaware and the Senator from Iowa.

The PRESIDING OFFICER. In that event, the Senator has the time.

Mr. CLARK. Mr. President, this amendment, introduced by Senators BIDEN, HASKELL, STEVENSON, and myself, would do one thing, and one thing only: Make available to our colleagues and our constituents a State Department legal memorandum stating the administration's view as to which of the provisions of the memorandum of agreement associated with the Sinai Accord represent legally binding commitments on the United States.

The memorandum is now classified as secret.

Mr. President, the question before us is really much larger than the Middle Eastern agreement. The question is, What is the role of Congress and the people in the conduct of American foreign policy?

In speaking to the press on September 4, Secretary of State Henry Kissinger declared:

> The American people will know all we are committed to.

He stated as a fact, at a press conference on September 4, that the American people will know all that we are committed to.

Mr. President, unfortunately the administration has done absolutely nothing to date to fulfill that pledge. If it were not for two facts, the American people would still know absolutely nothing about what is in those agreements.

First, obviously, a newspaper was able to obtain copies, and printed them. That is how the American people learned of these commitments.

Second, last Friday, 1 week ago today, the Committee on Foreign Relations moved to declassify these documents. If it had not been for those two actions, the American people would be totally in the dark as to what is involved in these agreements. The Secretary of State has still not fulfilled his pledge that the American people will know all that we are committed to.

The problem is that although, through a leak and through the action of the Foreign Relations Committee, the basic agreements have become known to the American people, the fact is that the memorandum, the so-called Leigh mem-

orandum, which describes the specific paragraphs which the State Department feels are legally binding on this Nation, is still not public. It is classified as secret.

So, Mr. President, the only real question before us with regard to this amendment is whether or not we believe that the American people, who are going to be legally bound by these commitments, ought to know what they are. It is as simple as that.

Should the American people be told what the State Department believes to be legally binding commitments on this country, not only on this administration, because there is no time limit whatsoever in this legislation?

From time to time, the question has been raised as to whether there ought to be a time limit, but no amendment has been so offered. If it is passed as it is, there are commitments without limit in terms of time.

So, simply put, this vote is to ask Members of the Senate whether they feel their constituents have a right to know what the State Department interprets to be legally binding commitments on the United States. So that is what this vote is all about.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, on my own time, I associate myself with the remarks made by the Senator from Iowa (Mr. CLARK), and I add a few other comments.

In an attempt to reassure us in committee over the past several weeks, the Secretary of State and/or one of his designees have time and again in executive session explained to us that certain provisions either contained in the Memoranda of Agreements, that we have all come to know about by now, do not mean quite what they say, or they, in fact, may not be as binding as they appear, and there was really no intention for them to have the effect that is ascribed to them by some members of the press and some of our colleagues.

I found myself in the dubious position, having been for the 2½ years I have been here in the United States a strong supporter of the State of Israel, of voting as the only Member of the Committee on Foreign Relations, along with Senator MANSFIELD, against reporting out a resolution which I do not have that much objection to in substance.

What I do object to is the fact that the assurances given to us by the State Department—which I might add, parenthetically, would I think reassure the American people, and make them less apprehensive if they knew what the State Department was, in fact, binding us to—are less broad than they have been alleged to be. Without us telling the American people and our colleagues what in fact this administration says it is bound to do, what we are about to do is to approve the technicians' resolution tied to a lot of hollow assurances that breakdown in terms of semantic arguments at a future date as to whether or not the Secretary of State really meant thus and so. He told us in closed session whether or not the President really did not mean that he, as President, could, under certain circumstances, take such and such an action based on those agreements. Do we really know whether or not the Secretary of State was correct when he said such and such a provision is not legally binding upon the United States of America?

In the absence of this memorandum, which is a legal interpretation by the State Department of its own documents, it seems to me, as reasonable men, we must assume that every single solitary paragraph, sentence, and word in the memorandum of agreement between Israel and the United States and between Egypt and the United States is, in fact, legally binding. If we recall the scenario that we have gone through, the administration says, once Congress reports this resolution as to these 200 technicians, we are going to sign all the memoranda of agreement involved. Once we sign those memoranda they automatically become executive agreements. Our position is that executive agreements have a binding force of a treaty in international law, and they bind the U.S. Government domestically to that nation.

Then the State Department memo goes on to say, "But not everything is legally binding." Yet, unless the memo is disclosed, assuring us what is binding and not binding that, in part, I feel is the reason why many of my colleagues on the Committee on Foreign Relations were not willing to vote this out. Unless they are willing to go on the public record before the American people and tell us the degree to which they feel these things are binding, how are we to be able to hold them to that, if in fact at a later date this administration or the next administration decides to put a much broader interpretation on what everyone, I submit, must agree is at least an ambiguous document. That is the Memorandum of Accords between Israel and the United States.

Secretary Ball, testifying before the Committee on Foreign Relations, spoke to the question of ambiguity in this specific memo time and again. He said he thought it was an extremely bad practice in international affairs to leave things in such an ambiguous state.

The retort by some on the committee, and in closed session by the Secretary of State, was that ambiguity is a necessary diplomatic tool.

That is all wonderful. It is a necessary diplomatic tool. That would be fine if it only spoke to this administration for tomorrow or the next day. But everyone agrees, including the distinguished manager of the bill, that once these people have an accord go into effect, which will happen when we vote this out, that at least future Presidents are bound by what we are allowing to go out of this Chamber and take the full force and effect of an effective agreement tomorrow, the next day, or whenever we report it out.

Again, how can we justify not letting the American people know what our President's interpretation of ambiguous agreements is? How can we justify keeping that interpretation secret and then turn around and say to the American public but accept it and accept our good faith, that they really do not mean very much, that we really are not committing to send American troops, that we really are not selling in advance our vote on the Security Council, that we really are not guaranteeing passage in the Straits of Gibraltar and the Suez Canal, and use of military force if need be?

I believe the Ford administration when it says it does not mean all of that. But I happen to be a little bit more skeptical.

Someone said a little earlier that we have to accept someone's word. When the United States of America, all its power, and all its dollars are potentially on the line, I am reluctant to accept anyone's word under any circumstances other than those which are tightly drawn, as a matter of law, or as a matter of treaty so that reasonable men at a future date cannot go back and say, "But we really meant thus-and-so."

I dislike standing here having to refer to these agreements in terms of thus-and-so, this-and-that, if we do, if we do not, instead of being able to specifically cite what we have agreed to.

Evidence of the fact that this should all be public is borne out by the fact that in debate, I cannot even say to my colleagues that paragraph 10 means blank, paragraph 8 means such and such: Here we are with open covenants, openly arrived at in this great deliberative body, and I say that the ladies and gentlemen of the press should write to all our constituents and tell them that they now know it all, they in fact are fully informed, and we have nothing really to worry about.

If I can digress for a moment, do Senators recall the last year and a half of adventure at the executive level? A year and a half ago, when we made a change in the guard of the Presidency, we all stood and said:

> This proves we are a Nation of laws and not of men. We, in fact, are a nation that abides by laws, not having to rely on the good faith of whomever happens to sit in that executive branch.

I submit to the Senate that if in fact we keep this memorandum classified, if in fact we vote out the technicians' resolution without spelling out the ensuing commitments, we will have taken one more step to confirm that we are not a Nation of laws, and that we continue to rely upon the good faith of whomever holds the Office of the Presidency to do what is in the best interests of America.

I am sure there will be some who will say that all they are really interested in is the safety and security of America and that those who insist on debate and revelation will jeopardize peace in the Middle East. As someone said yesterday, "I love America more than I love both political parties." That is a bunch of claptrap.

All I am asking for, and all the Senator from Iowa is asking for, is just to put it on the table. Quite frankly, if it were put on the table, I could vote for this. I think the extent of what the administration in its secret memorandum interprets as be-

ing legally binding and not legally binding is a reassurance. But I am not going to count on the good faith of the next President to abide by a noncommitting interpretation of the past administration.

I do not want to be in the position, in this Chamber, in 1977, when we have a Democratic President in the White House who favors a point of view different from that of the Republican President and who is more adventurous than this President, to say: "You know, what we really agreed to in paragraph 10, Senator CLARK, was that it was a treaty, a mutual defense pact. Therefore, we are obliged, under paragraph 10, to take such action."

As to the counterargument, I always like to give the other fellow's argument because I can slant it as much as I wish. The argument given back to us as to why this could not be released was a very interesting and intriguing one. Dr. Kissinger testified in response to a question by me and others as to why we could not declassify the legal memorandums—even though, by the way, we had declassified the things to which it refers. I am paraphrasing. He said:

> You can understand, Senator, that we still have the four documents referred to, which are classified. Therefore, when we give you an interpretation of what we still consider to be classified, we of necessity have to classify it.

I said:

> Wait a minute. We declassified it. The American public has seen it, even though we have not debated the particulars of it. The American public has seen it. I am at a loss to understand why you cannot declassify your interpretation of what declassified documents mean.

Well, what that might do, it was told to me and others, is that it might give a greater binding effect to what we intended than the administration wants to give. Again, the administration, in closed hearings, time and again—and I hope my colleagues will correct me if I am wrong—leaned in the direction of trying to convince us that this had a significantly less binding effect than it might even appear, but we did not want to tell people that, because if we told people that, perhaps the parties in the Middle East would not think we are such good guys.

So what we are going to do in the meantime—paraphrasing former Secretary Ball—is to let Cairo and Tel Aviv believe what they want to believe about these assurances.

I refer to page 63 of the testimony, in response to a comment by one of the most articulate men I have ever run across, Senator JACOB JAVITS. These were open hearings, and they are declassified. I say to Senator CASE that I want to make sure I do not say anything that is classified.

This is what Senator JAVITS said:

> I don't care how Jerusalem or Cairo interpret what they think is an undertaking or an assurance, but I care everything about what we think and what we represent to the Congress, which is in my judgment the only binding assurance or commitment to be an assurance or commitment by the United States. Sadat and Rabin may say they understand anything, but it is what we understand that will determine what we will do, and that is in my judgment why it was so critically important to get that representation which we will get and we have gotten already from the President of the United States.

He was referring back to the door being locked, front and back, where he said the President says, "I have given you all there is to give. I have assured you of everything we have assured."

The response of Mr. Ball is very persuasive. He said, in response to Senator JAVITS:

> Well, with all due respect I care very much how Jerusalem interprets this. I care very much how Cairo interprets this. They are going to base their action and conduct in the future on how they interpret it. If they interpret it one way and assume these are binding commitments we have put them in a very, very false position. If the Congress does not think they are binding commitments, I think that this comes back to the central point I was making a while ago—ambiguity is a very, very dangerous element in international exchange and I think it is extremely important that we make it clear to these other capitals what we mean or otherwise we are going to head into greatest international misunderstanding.

I do not know how to escape the logic of former Secretary Ball's assertion. The only way that we in this Chamber and the American people can be sure that Cairo and Jerusalem know precisely what we mean, the only way we can be assured that the President of the United States means no more than he is saying he means in that confidential memorandum, the only way we can proscribe our adventures in the Middle East, is at least to declassify this document, which takes every paragraph of the memorandum, the "Sinai accord," and gives the State Department's interpretation as to what it means.

Unfortunately, not many of our colleagues are presently in the Chamber to hear this argument. I suspect that when they walk into the Chamber, the argument on disclosure will be cast in the following way: If you disclose, you are likely to jeopardize peace in the Middle East. The best way to assure that there will be peace in the Middle East is not to disclose, not to let these sensitive documents, which are of the highest national interest, be known by the American people or be known by my colleagues in this Chamber.

To the best of my knowledge, no one but members of the Committee on Foreign Relations have even seen this memorandum. I may be wrong.

Finally—and I will reserve the remainder of my time as I end with this comment—I am going to offer an amendment immediately after this one, on behalf of Senators CLARK, STEVENSON, and HASKELL, which speaks to a portion of the resolution and states that we, in Congress, in effect view all of the memoranda of agreement—and by the way, I reiterate that those memoranda are going into effect once this resolution is voted upon—that the statements, commitments, and assertions in that memorandum of agreement are nothing more than assurances of the good faith of this administration.

I believe we stand an even chance of not declassifying this. If, in fact, we do not declassify this and then if the amendment which I referred to were defeated, we in Congress would be saying that we are willing to vote out 200 technicians, which immediately puts into effect at least 16 points with regard to Israel and I believe 3 or 4 with regard to Egypt. We are willing to do that without even knowing what the effects of those points are, according to the State Department.

It seems incredible to me that we could do that. It is sort of like: "Don't tell me. Let me close my eyes. I don't want to know what we are committing ourselves to. Just give me broad assurances and tell me about peace in the Middle East and that I've got to trust somebody," even though we have before us in the Committee on Foreign Relations a detailed document explaining what they believe to be the extent of the commitment. I fail to understand how we can put our head in the sand. Somebody pointed out to me, one of my colleagues, "You know, Joe, Senator CLARK and you and the others are raising good points here, but the problem is, you are probably going to get whipped. And then, you know what? Then we will not be able to argue ambiguity later, because we will have known or have had the access to know and decided not to."

So we will have precluded ourselves at a later date from coming back and saying, "Mr. President, we didn't mean to give you that authority," because the President says, "This is what I think my authority is." That is incredible. It is absolutely incredible. In the name of peace, in the name of honor, in the name of the flag—in the name of God—we are going to go forward with our head in the sand and not only not stop what is a stupid occurrence, but preclude ourselves or, as we lawyers say, stop ourselves at a future date from arguing that they did not have the power to do what they did.

If I keep talking, I am even going to get angry with myself. So I guess what I will do is reserve the remainder of my time and hope that someone can put my mind at ease and explain to me how what I have said does not have the effect of what I have said; because, as I said in the beginning, I would love an excuse to vote for this resolution. I would love an excuse to be able to be put in the posture of, once again, backing a nation which I feel a strong commitment to. But what is at odds here, it seems to me, is not whether or not I, or anyone else, am willing to commit myself to Israel or to peace in the Middle East, but whether or not we are willing to commit to the constitutional processes and responsibilities of this functioning U.S. Senate.

I thank the Chair. If I have any time left, I reserve the remainder of it.

Mr. HASKELL. Mr. President, I associate myself with the remarks of Senator CLARK and Senator BIDEN. It is the height of absurdity not to know, at least, what one's own government thinks he is being asked to commit. Admittedly, if the amendment is attached to this reso-

lution, it is not going to help us very much this time. By the time we will have seen it, we will have cast our vote in the dark, or semidark. However, I think it is very important, from a precedent-setting viewpoint, that when we enter into agreements with foreign countries—when the Senate and the House of Representatives are asked to vote, one way or another—they have the benefit of their Government's official views.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CASE. Mr. President, am I correct that this is a resolution jointly introduced by Mr. BIDEN, Mr. HASKELL, Mr. CLARK, and Mr. STEVENSON?

Mr. BIDEN. If the Senator will yield, yes, that is correct.

Mr. CASE. Senator BIDEN has used his time on the proposal. How much time is available still?

The PRESIDING OFFICER. The Chair advises the Senator that the amendment was offered by the Senator from Iowa on behalf of himself and the Senator from Delaware, the Senator from Colorado, and the Senator from Illinois. The Senator from Iowa has 54 minutes; the Senator from Delaware has 37 minutes; the Senator from Colorado has 59 minutes.

Mr. HASKELL. If the Senator will yield, I shall transfer the remainder of my 59 minutes to the next amendment that is going to be brought up by the Senator from Delaware. I have nothing further to say on this amendment.

The PRESIDING OFFICER. As the Senator recalls from the unanimous-consent agreement of yesterday, that, in itself, requiries unanimous consent.

Mr. HASKELL. May I ask the Chair, I had understood that I had an hour of time, to be used in connection with an amendment or amendments. I cosponsored, with Senators CLARK, BIDEN, and STEVENSON, two amendments. I certainly hope that it will be the ruling of the Chair that I can use my time in support of whichever amendment I wish.

Mr. CASE. If the Chair will permit an intervention here, I understand that the Senator from Colorado is quite correct about his understanding of the unanimous-consent agreement.

Mr. HASKELL. I thank the Senator.

The PRESIDING OFFICER. In order to have no doubt about it, does the Senator want to ask unanimous consent? There seems to be some disagreement between the Parliamentarian and him.

Mr. HASKELL. I ask unanimous consent that the time allotted to Senator CLARK, Senator BIDEN, and myself be used as we wish in connection with the amendments which we have offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. I thank the Chair.

Mr. CASE. Mr. President, I have two feelings about this amendment. The first is that the amendment is not necessary in order to make this memorandum available to all Members of the Senate. It is available now. It is here. Anyone can have it, so it is not necessary for our consideration to have the resolution itself amended in order to make it available.

Since that is so, it comes within my second consideration; namely, that this is not only, as I think, an inappropriate addition to a joint resolution, particularly this joint resolution, but it runs directly into the effort that we are making, so far as we can, without prejudicing anybody's rights or limiting his wish, to have a substantive matter considered and voted upon by this body, to have our action conform to the action of the House. In all matters of purely formal arrangements or preferences as to wording, I think we are entitled to ask our colleagues to consider that objective.

In respect to procedural matters of this sort, the objective of which can be accomplished without adding it to the resolution itself, I think, to me, at least, that consideration is compelling.

I have no further desire to discuss it. I shall be quite content, if my colleague from Minnesota is ready, for us to yield our time so we may come to a vote on this amendment.

Mr. CLARK. Mr. President, I have some questions to ask about it, but I notice that the Senator from New York is on his feet, so I shall wait.

Mr. CASE. I am sorry, I did not see my colleague.

Mr. JAVITS. I shall wait until the Senator asks his questions, then I shall ask for 3 minutes.

Mr. CLARK. Does the Senator from New Jersey have any doubts about this amendment being in order? There was some indication, it seems to me, that he felt it was not in order to offer an amendment of this kind to a joint resolution of this type.

Mr. CASE. I think I used the word, "inappropriate," which perhaps could be referred to as a matter of stylistic preference, if the Senator would like.

The point I wanted to emphasize, really, was that it is not necessary to do this to this joint resolution in order to accomplish the perfectly understandable and laudable purpose of the sponsors of this amendment.

Mr. CLARK. Well, how would the American people be advised as to what these legally binding commitments, as interpreted by the administration, meant; how would they express themselves to their representatives in Congress prior to the time that we vote on it if it is not made public prior to that time? Obviously, it could be made public at some time after the action was completed. I think the question before us is—on my time, Mr. President—whether the Members of this body believe the commitments that are being made on behalf of the American people ought to be known to the American people before we vote on it. That is a pretty clear question.

If there are Members of this body who feel we ought to make commitments on behalf of the United States and its people, as interpreted by the administration, let us say it clearly by the President because this memorandum stands for the administration. The Secretary of State has made that clear.

If there are Members of this body who believe the American people are not entitled to know what their President and this administration interprets to be legally binding commitments on them then they can vote no.

Mr. CASE addressed the Chair.

Mr. CLARK. I yield.

Mr. CASE. I am sorry, I thought the Senator was asking me a question or asking for my comment on that admirably-stated point.

Mr. CLARK. I did ask for the Senator's comment.

Mr. CASE. I will tell the Senator how I feel about it, and this is probably completely unorthodox. I do not think this legal document, this opinion of a lawyer, a perfectly fine lawyer, has any real bearing on the issues in this case. Now, that sounds like a funny thing for a lawyer to say, someone who at one time in his life, in his early stages, was himself a lawyer.

We know what the undertakings and assurances are because first, they have been published in newspapers; second, we have made them public through the action of our committee. Whether we should have or not, we did, and they are now available in printed form not only for distribution generally but for convenient reference here on the floor.

This document here is a strange one to me. I do not find it a very happy kind of document myself. It is not clear to me what the counsel for the State Department is doing when he labels each of these items paragraph by paragraph as legally binding or not legally binding, and so forth. I think he is talking about two things. Sometimes they are confused, at least they are in my mind. One, what can the executive branch do without affirmative approval of Congress? What can it do is involved in this very much.

Another thing is whether a certain expression is a binding promise to guide this country or the executive branch in future actions. Well, that gets into the question of what is a binding promise. When I was a boy I was told, as a matter of contract law, you did not have a contract unless it could be enforced. Well, this cannot be enforced anywhere. None of these things can be enforced except by force of arms—not one.

All that we are doing, therefore, when we are talking about the expressions of this lawyer is looking at what one man says are legally binding, which means how much weight, how heavy is the assurance. This we do not need any lawyer to tell us.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. CASE. To promise to consult is what it is; it is a promise to consult, and if you do not consult you have broken a promise that is not a contract. It is not legally binding.

Mr. CLARK. Mr. President, will the Senator yield at that point?

Mr. CASE. And it is wrong to give all the emphasis that we have in all this discussion with respect to this document. It could be embarrassing to have any representative of our Government appraise its own assurances to the two

countries here involved, saying "We do not really mean this; we mean this a little bit more, we mean this other thing all the way, boys, all the way, but do not ask us to fulfill it because we might change our mind."

Look, the thing speaks for itself, and that is my judgment about it.

Anybody in this Chamber who wants to see what this lawyer said about these things—and I think it is a poor document—anybody who wants to see it can. It is here. It is available in many copies, as many as anybody wants. It can be seen if we want in closed session and I certainly would not resist—I could not, I guess, effectively resist if I wanted to. But I do not resist having a closed session in which each one of these things is discussed by every Member of this body.

But for us to place a subordinate employee of the State Department in position to embarrass the Government of the United States in these matters I think would be wrong. That would be the effect of what is suggested here.

People have different views about this. I do not yield, as my beloved colleagues know, to either of them or to any of them in my determination to have the American public know what our Government has promised. But I do not think it is necessary or desirable in any degree. I think it is indeed highly undesirable to have a legal counselor in the Department of State rate the weight to be given to assurances made by our Government which can be read by every one who runs, including every Member of this Chamber.

Mr. CLARK. Mr. President, I would like to address myself to the comments the distinguished Senator from New Jersey has just made.

It is interesting to me that this memorandum has now been relegated to the position of a subordinate in the executive branch of Government.

Mr. CASE. I do make that assertion. He is not the policymaker. He is not the person who negotiates. He is not the person who speaks for our Government. His standing as a lawyer is involved here in an appraisal which, I think, was vacuous from the beginning unless it meant to find whether there is something the administration can do without Congress approval.

That has been turned around now. He does not attempt, at least he does not say, that he is answering that question. I would be very much interested in that, although if that is what he meant when he said, for example, that certain of these things could be done by the executive without Congress approval, I do not agree.

Mr. CLARK. If we may have an exchange on that point, I think I still have the floor, do I not?

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. CLARK. If we may have an exchange on this point, I was certainly under the impression sitting in on these hearings, and I have been at every one of those meetings——

Mr. CASE. The Senator is most faithful.

Mr. CLARK. The Secretary of State ordered this memorandum to be submitted.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. CLARK. I will as soon as I make this point.

Mr. JAVITS. On that point.

Mr. CLARK. The Secretary of State, Henry Kissinger, specifically asked his legal adviser to give to our committee on an official basis the administration's position as to which of these are legally binding. It is not simply some subordinate bureaucrat who is doing it, but someone on behalf of the President of the United States. If the President of the United States and the Secretary of State are not prepared to stand behind that memorandum, then I think somebody ought to be prepared to represent them to say no, this does not represent the President's position, the Secretary of State's position, even if he had sent it to us, even if he asked that the opinion be written, and conveyed it to us. Now, does this mean that the so-called legally binding commitments, in fact, are not legally binding in the judgment of the administration?

I yield to the Senator from New York.

Mr. JAVITS. Mr. President, it is a good thing that the Senator does because I asked for it. The record will disclose that this was not asked for by Kissinger or sent to us by the President. I asked for it. I asked Leigh to prepare the memorandum for exactly the purpose, and in open session, and he looked at Kissinger, and Kissinger shook his head, what else was he to do, but I asked for it only on the point, and precisely on the point, that Senator CASE has just referred to, what powers can the President exercise himself without the concurrence of Congress, and what powers must he have the concurrence of Congress upon, and in describing this memorandum since, not on one but on many occasions, I pointed out that the only place there was anything operative in terms of law was the oil proposition, which was absolute. It was not consult, not study, et cetera. I pointed out that there he gave us legal authority, and I thoroughly agree with Senator CASE that he went way beyond what he was asked to do. He was nothing but a volunteer, and it is but one lawyer's opinion, and that is that.

Mr. CLARK. Mr. President, will the Senator from New York permit me, if I may, to just answer that?

Mr. JAVITS. Of course.

Mr. CLARK. I am reading from U.S. Senate Report of Proceedings, Hearing Held Before the Committee on Foreign Relations, Sinai Agreement, Tuesday, October 7. The Secretary of State is speaking about this memorandum which we have under discussion now, and I think he says very clearly that "This memorandum represents our position, the State Department's position." He says:

> Thus, to speak of a memorandum of agreement as an executive agreement is by no means to say that each of their individual provisions is binding upon the United States. That depends entirely upon the contents of the specific provisions in question, and we have submitted our legal analysis with respect to those.

If that does not stand for the Secretary of State speaking for the United States, then I do not know what does. What we are saying here is that the American people are being committed legally, in the judgment of the President, and the administration and the Secretary of State do not have the right to know which of those are binding in the opinion of the administration before their Representatives in Congress vote on it.

Mr. BIDEN. Will the Senator yield?

Mr. CLARK. Yes.

Mr. BIDEN. To refresh everyone's recollection—and correct mine if it is incorrect—as usual it was the penetrating question of the Senator from New York of the Secretary of State in a closed session on his very use of the word "binding," and put him in a position where he started to respond on what is binding and not binding.

As that session was about to break up and the distinguished Senator from New York was leaving to go to another hearing, I recall having said, "Before the Senator from New York leaves, do I understand, Mr. Chairman, one thing," and turning to the Secretary of State, and Mr. Monroe Leigh, the legal adviser of the State Department, was sitting next to me, I said, "Is it my understanding that the request of the Senator from New York will be fulfilled in that every single paragraph of this agreement"—referring then to the memorandum agreement—"will be interpreted by the State Department as to binding and not binding, is this in the context which we have been discussing today?"

Dr. Kissinger at that time said, "Yes." The chairman said, "Yes." Senator JAVITS said, "Thank you." I said, "Thank you."

From that point on, I began to ask every day, "Where is that memorandum from the State Department?"

The Senator from New Jersey is an extremely persuasive fellow, by the way, he stands there and talks, he sort of does a Northern version of what Senator FRITZ HOLLINGS does on a Southern version. FRITZ HOLLINGS says, "Lawyer types downtown; that lawyer crowd."

Well, the Senator from New Jersey in a Northeastern fashion takes off his glasses and says in a very persuasive manner, "Well, it is just a lawyer downtown." I used to be a lawyer. By the time we are finished, I was convinced it was something else. I had to jog my memory. It was the Secretary. He said, "We stand behind this analysis, this is my analysis, gentlemen." Is it any more than if I said to my staff member, "Would you prepare for me an analysis of the speech I just gave?" He prepared it.

Mr. HUMPHREY. Will the Senator yield?

Mr. CLARK. I yield to the Senator.

Mr. HUMPHREY. We are all getting into that act.

My colleagues may recall on one particular day, when we had the sheet before us as to the summary of the so-called commitments, assurances and understandings, as compared to the ac-

tual language, that I asked at that particular time that we go item by item and see what each of these items meant.

So we have all been in the act, we have all wanted to find out what was binding, we have all wanted to find out what was "good intentions," we have all wanted to find out what was "assurances," and we have carefully used the words, "assurances, undertakings," and have not really used the word, "commitments."

May I point this out, that what the Senator from Iowa wants to do is to lock in for the Congress an interpretation that is made by the attorney for the State Department.

Now an attorney is an adviser. Even the Attorney General of the United States is but an adviser to the President. This is not a court that has ruled, nor is this the President that has ruled.

I think this is a precedent that violates a singularly important act of this Congress known as the National Commitments Resolution.

What is sought here? The Senator from Iowa and the Senator from Delaware and others, are seeking to lay out as if it were holy writ—rediscovered Dead Sea scrolls—that the opinions given by this one adviser and counsellor in the State Department is the word, the law. It is the word.

What does the commitments resolution say? The commitments resolution takes into consideration the historic argument between the legislative branch and the executive branch as to what the President can commit us to. This is as old as the days of George Washington to this moment. What can be a President commit the Congress to?

All that the Senator from Iowa and the Senator from Delaware are saying is that when the counsellor to the State Department says that it is legally binding, then that is it. We poor souls in Congress want some leeway. We put in our resolution that the authority contained in this joint resolution to implement the U.S. proposal for the early warning system in the Sinai does not signify approval of the Congress of any other agreement, understanding or commitment made by the executive branch.

Several Senators addressed the Chair.

Mr. HUMPHREY. Now, wait a minute. Wait a minute.

That is what we have done. We have said, "Look, you are not going to bind us from taking a look at things as they come down the road, one by one. Don't give us the whole book at one time. Give it to us one by one, and we are going to take up, first, these 200 observers, and, Mr. President in the White House and Mr. Secretary of State, you come on down here later on with this other stuff and we will look at it."

Why do we say that? Because in the past we have had people say to us, "Well, you know when you voted for this resolution, you voted for the whole thing, you voted for our dreams, you voted for our nightmares, you voted for what Uncle Ned had to say, you voted for what my mother commented."

We have had all that down here. It is a dramatic exaggeration of the painful truth.

Therefore, a man that is a Member of this Congress, and a brilliant man, by the name of Senator SYMINGTON, and others, concocted and proposed for debate, and held hearings upon, and Congress passed the following:

> It is the sense of the Senate that a national commitment by the United States results only from the affirmative action taken by the executive and legislative branches of the United States Government by means of a treaty, statute or concurrent resolution of both Houses of Congress, specifically providing for such commitment.

We are not ready to provide for such a commitment. We know what the executive branch has done. It is published.

First of all, they put it in the New York Times, then Jack Anderson and the Washington Post published it. We did not want to be left out, so we said that we would publish it at Government expense. The Times printed it free for us, but we have got to get it in our little old document here.

So we published all of these binding agreements—binding, quote and unquote—that we had made it clear in this resolution does not involve this resolution—does not signify approval of the Congress of any other agreement, understanding or commitment.

What do we have here? We have the proposition that now we have got to get this lawyer's opinion that is not worth any more than any other lawyer's opinion spread on the RECORD. We are going to put that out and say all that.

We have debated the amendment offered by the Senator from Iowa, if that amendment was adopted, then everything that that lawyer can file—a lawyer who did not get elected to a thing, who is no policymaker whatsoever—that lawyer's interpretation suddenly becomes the law of the land.

I can think of nothing that would be worse to lock us in.

Mr. CLARK. Will the Senator yield?

Mr. HUMPHREY. It leaves one no wiggle room at all.

I will give an example. Not long ago, when President Kennedy was President of the United States, I went over to see Mr. Douglas Dillion—it was either the latter days of the Eisenhower administration or when President Kennedy was in the first year of his office, I forget now—but I was author of the Food for Peace program.

I remember they had a lawyer over there in the State Department that told then Under Secretary of State of Economic Affairs Douglas Dillion that a certain proposition that had been brought to the attention of the State Department was not within the law.

Here is what it was. There was a provision in the Public Law 480 that said that certain amounts of the foreign currencies generated by the sale of American agricultural commodities were to be made available to American companies doing business overseas on the basis of a very favorable loan for the development of that company in said country.

Well, they had a lawyer who did not like companies, who did not believe in profits. Frankly, he did not like agriculture, I found out. He just did not like it.

This lawyer started to tell the Under Secretary that this proposition is illegal; we cannot do that; the law does not provide for it.

So I went on over and I saw the Under Secretary. The Under Secretary had this lawyer in. I listened to them, I listened to all this nonsense, and finally I said, "Mr. Secretary, could you dismiss the lawyer for just a while so we can talk privately?" He said, "Yes," and the lawyer went out.

I said, "Listen, Mr. Secretary, I do not mind you privately assuming that I am stupid, but publicly declaring it offends me. You have some fellow here," and I had a name that described him. He kind of had long ears. I described his anatomy. I said ,"You have a fellow who is telling me I did not know what I was doing when I wrote that law. I have a suggestion for you: I know what I was doing as a legislator. I know more about Public Law 480 than all the lawyers you have here put together. It is my baby. I wrote it out. I brought it out. I have a suggestion, Mr. Secretary. I will be back tomorrow. Get yourself a new lawyer."

The next day I came back and they had a new lawyer. We sat down and the lawyer said "Absolutely, Senator HUMPHREY is absolutely right. The law is perfectly clear." It was just a different lawyer from the same law school.

If we are going to let some counsel who is an appointee, who has no standing in fact except as an advisor lock us in and tell us that every comma, period, semicolon, whereas, resolve, and so on, becomes binding law, I submit that we have violated not only the executive functions of government but the legislative functions of government.

Mr. CLARK. Mr. President——

Mr. HUMPHREY. If we want all of this to be binding, if we want every word to be binding, I have a suggestion: Offer an amendment to take all of the provisions that were negotiated and put them up here as an amendment and lock us in. See how far that sells. That is not going to sell at all. The reason it is not going to sell is because any man who is President of the United States has his first duty to protect the interests of the United States.

Those things that one commits oneself to at one time may be found intolerable at another time. The first duty of the President of the United States is to look out after the national security interests of this country. It may be that the next President of the United States, whoever he may be, may find that some of these declarations, some of these assurances and undertakings, do not fit circumstances of that kind.

If we go around here and lock these assurances and undertakings in by legislative enactment, we are committed. But if they are there as understandings and assurances, we have some flexibility.

What we have here is an academic ex-

ercise in constitutional law. We have an academic exercise in diplomacy.

Save this country from academics who go on out and have to have all of this kind of finale, when we do not even know who is going to be the President of Egypt next year, when we cannot predict 6 months ahead what is going to happen in that part of the world.

The President of the United States has to have some mobility, some flexibility. We only have one President at a time.

I submit that the worst thing that we can do is to let some junior grade officer start to tell us in this body that something that is written on a memorandum that is an interpretation of something that was an understanding suddenly becomes the law of the land.

Mr. CLARK. Mr. President——

Mr. HUMPHREY. Save me from such kind of perfection. It will drive us into an early grave as a country and lock us into positions that no responsible government ought to be in.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. CLARK. Mr. President, I would like to ask the clerk to read section (b) of the amendment which is before the Senate to see whether or not the Senator is right about whether in passing this amendment we bind this body to this memorandum in law. I ask that that section be read, without relinquishing the floor.

The PRESIDING OFFICER. The clerk will read that portion.

The assistant legislative clerk read as follows:

> The provisions of this section may not be construed as indicating agreement or disagreement on the part of the Senate or any Member thereof with respect to anything contained in such memorandum.

Mr. HUMPHREY. That is what it says in the resolution.

Mr. CLARK. That is exactly what it says in the amendment. For that amendment to be described somehow as binding is just the opposite.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. HUMPHREY. Will the Senator yield?

Mr. CLARK. I will yield following my statement.

Mr. HUMPHREY. Will the Senator yield for a question?

Mr. CLARK. I will yield following my statement.

Mr. HUMPHREY. I will get back to the Senator.

Mr. CLARK. We have just heard a long dissertation about how if we, in fact, pass this amendment it will bind this body legally to the contents of this memorandum. That is specifically why we wrote section (b) into the amendment. Let me read it again. Apparently there is some misunderstanding about whether, in passing this amendment, we are going to bind the Congress to the contents of that memorandum.

> The provisions of this section may not be construed as indicating agreement or disagreement on the part of the Senate or any Member thereof with respect to anything contained in such memorandum.

There should be no question in the world about declassifying this document we are somehow giving it some kind of new or stronger status.

The other point I want to make before yielding is this——

Mr. CASE. Will the Senator yield?

Mr. CLARK. Before yielding, let me make this point.

It has been said first by the Senator from New Jersey and then the Senator from Minnesota that this is just another lawyer, this is just a bureaucrat, just somebody interpreting it legally. Let me quote the Secretary of State in the public hearings before the Foreign Relations Committee. Then I would like to have somebody tell me that this memorandum does not have the complete support and standing of the Secretary of State.

I am reading from hearings before the Committee on Foreign Relations of the U.S. Senate dated October 6 and 7, 1975, page 228.

> Senator CLARK. Mr. Secretary, now in addition to these secret agreements, you have today transmitted to us a memorandum which you referred to with Senator Pell, a very important memorandum, which states what the administration considers to be legally binding commitments.
>
> Secretary KISSINGER. That is correct.

Let me read that last part again so that it is very clear.

I am asking the Secretary of State "what the administration considers to be legally binding commitments."

> Secretary KISSINGER. That is correct.

Before yielding, Mr. President, let me say, No. 1, the passage of this amendment, in accordance with section (b), in no way binds this Congress. In fact, it specifically states that it does not bind this Congress to the contents of that memorandum. I disagree with the memorandum. That is not the point. The point is that the President and the Secretary of State, the administration of this country, believes that they are legally binding and they are going to implement them, not some country lawyer.

Second, this does represent, as Secretary Kissinger confirmed in the hearings, the official position of this administration.

I yield.

Mr. CASE. I thank my colleague.

I would like to go back to the beginning of this and remind all of us what we are talking about. We are talking about an amendment which would add a provision to the resolution stating that it is the sense of the Senate that leave be granted to declassify this legal memorandum. That is what we are talking about.

If I could again sum up the matter, this came about because Senator JAVITS, of New York, asked that the administration's view as to its powers in making these various statements be expressed to the Senate. What he wanted was to know—and if I am wrong in any sense, I know he will correct me—was what the administration thought it could do without the approval of Congress.

That was the question. And that was the question that the lawyer was supposed to be answering.

That, somehow or other, got turned around in this process, and a memorandum was given us which seems to show what the administration's view of its several statements was, in respect not to what the President could do without congressional approval, but whether these several statements were binding in some sense—and that is a very loose word when it comes to agreements for which there is no legal means of enforcement.

It finally has seemed, now, to represent that almost exclusively, and therefore to be an appraisal of the weight which the administration has given to the several undertakings, assurances, statements, or whatever you want to call them, and therefore a document which would, I think, be highly embarrassing to the Government to have made a matter of public record.

It makes a certain statement to Israel. This is said to be not binding. It makes another statement to Egypt. That is said to be binding. Some of these things I characterize as statements of intention, others as indications of a present mood about something.

This is the stuff of which negotiations are made. It is not the stuff of which commitments of a country, intended to be permanent and, as has sometimes been stated, put into concrete, should be regarded as consisting.

I yield to no one in my feeling that this matter is one that we all ought to understand fully before we go to any kind of legislative action.

Mr. BIDEN. Mr. President, will the Senator yield?

Mr. CASE. Yes.

Mr. BIDEN. The Senator from Minnesota asked a question as to why, if in fact Congress is not being bound by the legal interpretation of the State Department, we should want to know.

Mr. HUMPHREY. That is right.

Mr. BIDEN. I would like to answer that, if I can. We want to know because we have to remember the chain of events here.

Once we vote out this resolution, all those provisions of the act which have been interpreted by the State Department will take the force of an executive agreement, and at that point they will have the standing of executive agreements, and the Executive feels that it, at least, will be bound by it.

So it seems to me that when we take the first step which puts everything else in motion, which is all in the memorandum of accord, we should be able to tell the American people what the intention of the administration is.

I read from the record of the hearing in the Committee on Foreign Relations of October 7, 1975, public hearings, Dr. Kissinger testifying, at page 321. This is Senator CLARK, following up where the Senator left off. The Senator said:

> Several of those agreements will be binding agreements in accordance with the memorandum that you have given to this committee.
>
> Secretary KISSINGER. Several of the provisions.

Senator CLARK. Several of the provisions will be binding which our country obviously will have to honor.

Secretary KISSINGER. Correct.

Our country will have to honor, at least in the minds of this administration, several of the commitments which we in this Congress are saying will become operative once we pass this measure, because we agree that immediately the memorandum of agreement will take on the suggestion of an executive agreement.

So the reason why we want this disclosure is not so much to lock in Congress to agree to what the legal memorandum says. We do not want that, but we want to make bloody well sure that everybody in the United States of America knows precisely what the administration says they intend, under their prerogative under an executive agreement, as they see it—some of the things should be treaties, but that begs the question—what they believe they are going to have an obligation to in fact fulfill, so that, to put it in very practical terms—and I think the Senator from Minnesota made a wise choice in not going to law school; when he talked about lawyers and how often they change their opinions he was right; maybe that is a failing some of us lawyers have: We make these things too perfect.

But let us be practical. The practical effect is, in everyday language, that once we vote this joint resolution out, the President of the United States of America is going to take certain actions which are going to commit the resources, at least, of this country.

He knows what those actions are going to be. He told us what they are going to be. He told us in a second document what he thinks he has to do. All I want to do is, before the fact, before we vote and make this a fait accompli, simply to tell the American people. Just tell them what the President is going to do, strip away all the legalistic jargon. What is the President of the United States going to do next Wednesday? What is he going to do next Thursday with regard to this agreement? He is going to commit your dollar, your people, your country.

So let us let them in on the secret. Let us tell the American people what is going to happen, that is all. No stylistic legalisms need be employed.

Mr. CASE. Mr. President, will the Senator yield to me?

Mr. BIDEN. I yield.

Mr. CASE. We are not wasting our time, I guess, although some of this might seem rather irrelevant hilarity. I think it is important to keep our distinctions clear as to what we are talking about.

Senator JAVITS asked a question. Another question was answered. That is what happened here.

What he wanted to know, if the Senator will permit me to continue—if I can be charged with having the wrong view or expressing it poorly, please do not hesitate to interrupt; otherwise let me finish what I have to say.

The witness was asked what the President of the United States regarded as within his power to do without congressional approval. That is what he was asked. That was what Senator JAVITS wanted to know.

The administration came back with answers to quite a different question.

What those answers consisted of was a rating of the relative weight of undertakings, assurances, agreements, or whatnot, in terms of international law, international relations, diplomatic communications, and the rest of it.

That was not the question asked at all. The reason they did this—this was not staged on his part. He was directed to do this, because what the administration was trying to do, I think, and I think I am fair about it, was make it clear that hardly anything in here was a matter which the President could not do on his own. That is what he was trying to do in answering a different question than that which the Senator from New York asked that he answer, as a matter of law.

Mr. BIDEN. Mr. President, let me respond to that.

Mr. CASE. So what we get into is that this document is not a matter of opinion or law as to what the President can do without the approval of Congress. It is a rating of the various statements made by the administration in these several documents. That, I think, is a matter for diplomacy. It is a matter which could be highly embarrassing, which we have, I think, the right to say, whatever its purpose, the administration is entitled not to have made generally public.

Mr. BIDEN. On that point——

Mr. CASE. Because its only purpose is one of embarrassment. We can do the same thing that someone did by looking at these documents here. Because he was not answering a legal question; he was just putting a diplomatic weight on various statements made by the administration.

Let me show you some of these things.

Mr. CLARK. Is the Senator now speaking from the classified secret document?

Mr. CASE. I am speaking as I feel that I should.

Mr. CLARK. I am just asking.

Mr. CASE. I do not think—if anyone regards what I do as improper, or as leading to disclosure of anything that I should not be disclosing, please tell me. I am only trying sufficiently to identify what this document is, by reference to various categories of or classifications in which he places these several agreements.

For example, I recall a statement that the United States, and this is not taken from classified documents, reviewed one of the party's requests sympathetically.

That is familiar to the Senator.

We do not need a lawyer to tell us that that is not legally binding but merely an assurance of U.S. policy and intent. We do not need lawyers to do that. This man was not answering a legal question. He was trying to show that a certain thing was not intended to be the kind of commitment of the U.S. Government that would require congressional approval. That is what he was trying to show.

Because he has made a mistake and the administration was wrong, I think, in presenting this kind of analysis of its own documents, it is quite wrong for us not to honor the request that it be kept confidential to our own membership. That is all my view is. That is the whole point.

If it would serve any useful value making that kind of thing public I would do it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware has the floor.

Mr. BIDEN. Mr. President, in response to the Senator from New Jersey, he makes a very valid distinction that what was requested of the State Department, or the legal advisers of the State Department, and what came back to us from the State Department were two different things.

I point out that that is irrelevant. What we are dealing with here is what came back, not what was asked.

By way of analogy, if I go to a doctor and I say: "Doctor, I would like you to check my son's back to determine whether or not he has a slipped disc."

I leave my son, and my son, instead of getting sent to an orthopedic man, gets sent to an internist, and the internist comes back and says "God forbid, I am sorry, Mr. BIDEN; in fact your son does have cancer."

What am I to say? I received an answer back different than the question I asked, that has serious implications. But should I ignore it because it is not the question I asked?

We asked the question. We asked the question which in fact was not answered, maybe, but the answer we received back has serious implications.

The President gave us a blueprint of what he is going to do.

Again, I go back. We all admitted in committee that, once we vote this out, the President is going to be able to do what he says he is going to do.

All I am saying, again is forget the legalistic jargon; let us tell the American people what the President is going to do. Let our colleagues know what the President is going to do because we might not want to vote it out if, in fact, we know what he is going to do. Then, I am prepared to vote it out because I think he hardly has anything that is binding in there. I do not think it does have the effect that some are ascribing to it.

I think the Senator from Minnesota is correct that in fact we are not going down some great path that is going to lead us into war and the President has the 6th Fleet poised in the Suez.

I agree with all of that. But I do not trust anyone. I do not trust this administration not to change their mind. I do not trust the next administration to not place them there.

Mr. CASE. Wait. Would the Senator not want an administration to change its mind if it were in the interest of the country it should do so?

Mr. BIDEN. I do not reserve the right to the President of the United States to determine on his own what is in the interest of America when it comes to committing American forces or billions of American dollars.

Mr. CASE. That is not the question.

Mr. BIDEN. I thought it was.

Mr. CASE. No one disagrees that, first, the President of the United States has only the authority in these matters that exists in law and the Constitution gives the President. That is all. To project that he has any authority because of statements here beyond which the Constitution and the statutes of the country and acts of Congress gives him is to, I think, upset the balance.

Mr. BIDEN. Let me follow up on that. As the Senator knows, we get back to a very basic question. We get back to lawyers again. How do we always get back to lawyers?

The administration interprets some of the paragraphs to the effect that they do not have the force of treaties. They are not that grave. In fact, the President intends on carrying them out, it would not be as a treaty. It would not have the effect of allowing the President to take some action that he does not have the power to take. The administration says that.

But we had constitutional lawyers up here before our committee, including Prof. Raoul Berger, and other eminent scholars on the Constitution, who said, as they read them, that some of the provisions of this agreement are so grave that they should be a treaty.

The President comes back and says, "But that is not how I read them."

Professor Berger would be the first to say, "If that is what you mean beyond what is on their face"—and remember the Secretary of State's saying these are deliberately ambiguous, some of them—"If in fact that is what you mean, then they are not a treaty, you are right."

But in the absence of assurances from them as to what they believe them to mean, we are left only with the documents and, God forbid something happens to Dr. Kissinger and to the President of the United States tomorrow night. The next President would be Vice President Rockefeller. Then he gets the chance to determine what it means on its face and, if on its face, he interprets it the way Prof. Raul Berger interprets it, interprets it as having the gravity of a treaty, we will have in the meantime given the President of the United States, via an executive agreement, the right to take an action which only should be treated in treaty language, and we will have precluded ourselves from going back and saying, "No, it is not a mutual defense pact."

For example, Vice President Rockefeller when he was first sworn in, came around to see us all. He gave me a lecture on the Navy—I do not mean a lecture—he talked about his view of the Navy, how we are falling behind, and how we had to go after the Russians; and he went on and on.

He has a scary view of what this place should be, in my opinion.

He might just turn around and say: "Paragraph 10 is a mutual defense treaty pact; therefore, I am commissioning *x* number of marines to go."

Well, he cannot do that if, in fact, he is locked into position by the words of this administration as to what they mean as contained in the memorandum I want declassified. He will be confronted with a legislative history. His lawyers will advised him, "You cannot do that."

But I sometimes in this Chamber when I speak say some things which have been pointed out to me by staff, and others, are inappropriate, and I wish to make it clear that the only reason I picked NELSON ROCKEFELLER is because he is Vice President. He has a decidedly different view than the incumbent President of what of our world role to be—or potentially he does—let me put it that way.

But whomever he be, this President or a future President, I say to the Senator, unless we lock in Presidents, unless we lock them into what is minimum, and I think what they have said in binding is minimum, at least then we know we have a feeling they cannot do any more than that, and we can still argue they cannot even do that.

Maybe, I say to Senator HUMPHREY, it is just that I am just really—Senator HUMPHREY and I have discussed time and again these kinds of issues.

We did it when he took me to England with him. We have done it in the corridors. He—and I really and truly mean this—I think he and probably Senator JAVITS are two of the brightest men I have ever met in my life. I have no one for whom I have a greater respect, and I can say in the Chamber of this U.S. Senate that I think he should be President of the United States. I clearly think he should be off the Committee on Foreign Relations because he acts like a President there. He views Presidential policy the way the President should so he should be in the White House. So he should be President of the United States.

Mr. HUMPHREY. Do not take that back. [Laughter.]

Mr. BIDEN. But the point is, and I do not want to get off too far, but the point is that he and I disagree basically on one thing, and I am just—and probably have considerably less reason than he to be this way—but I am just not at all trusting.

I do not have a warm feeling about what heretofore has been the normal operating procedure of the way things go, and maybe I am trying to alter more than I should. Maybe I am erring on the side of trying to be too legalistic. Maybe by being too legalistic I may have the effect of binding us more than we intended. That is not my intent. My intent here I hope is clear. My intent here is to state that, although I think Gerald Ford might be an honorable man and that Dr. Kissinger might be an honorable man, what, in fact, is the case is that Dr. Kissinger is one of the most persuasive doubletalkers in the world.

So I hope we understand that we are not binding the U.S. Senate or the U.S. Congress to what that legal memorandum says. Senator CLARK is taking care of that and puts in subparagraph (b) an exclusion that that is not the case.

Second, what we, in fact, are addressing ourselves to is that the President has told us his game plan. We know his game plan only goes into effect when we vote out the 200 technicians. We know, therefore, that we are the ones who trigger his game plan. I want to know, when I vote to trigger it, that at least the American people know what we are putting into effect.

I made a serious parliamentary mistake. I made my last best argument before the best debater in the Senate stood up—Senator JAVITS. He is getting ready to speak for 3 minutes. So I reserve a few minutes to respond to what Senator JAVITS may have to say.

I yield the floor.

Mr. CASE. I yield myself such time as I may require.

Mr. President, so far as I am concerned, I think we have ventilated this matter, as a former occupant of this seat used to say, perhaps enough, though not as eloquently as my colleague on the other side of the aisle, Senator HUMPHREY, has done.

We have just about come to the end of everything that can be said; and, when Senator JAVITS concludes, we will have finished.

I want to make one point, and it is this: The fact that in this legal memorandum certain things are stated to be either binding or not binding does not mean that they are not serious assurances or statements of intention by the United States.

Let me read what he says in that respect. I do not think anything should be downgraded by reference to that criterion only.

First, he says:

> In any case, it is my judgment that all the assurances, undertakings, and commitments which are now or hereafter may become legally binding are included within the four documents identified above.

Of course, that was the main purpose of our insistence for an assurance.

Mr. HUMPHREY. Will the Senator read that again, please?

Mr. CASE. He says:

> In any case, it is my judgment that all the assurances, undertakings, and commitments which are now or hereafter may become legally binding are included within the four documents identified above.

Those documents, as my colleagues know, are the four documents which were printed in the papers and which have been released from classification by the Senate, so that they are available to us and to all the world.

When he goes on:

> The converse is not true, since not all the provisions of the documents rise to the level of international agreements.

This is the point I rose to speak to at this point:

> The fact that many provisions are not by any standard international commitments does not mean, of course, that the United States is morally or politically free to act as if they did not exist. On the contrary, they are important statements of diplomatic policy and they engage the good faith of the United States so long as the circumstances that gave rise to them continue.

I believe it is very important that the world should know that we do not lightly regard even those assurances and undertakings, which a lawyer has said do not constitute legally binding commitments,

as of no effect. On the contrary, as he says, they stand as important statements of intention and diplomatic policy, and they engage the good faith of the United States as a government as long as the circumstances which gave rise to them continue. I think that should be firmly kept in mind by everyone.

These things are serious. That is why we are concerned to know what they are.

Mr. JAVITS. Mr. President, will the Senator yield me 5 minutes?

Mr. HUMPHREY. I yield.

Mr. JAVITS. Mr. President, I think we have now cut through to the heart of the issue to which I wish to address myself, and the heart of the issue is this: What will the President do? All the legal opinions in the world do not tell us what he will do. That is why we, the Committee on Foreign Relations, caused the paper headed "Memorandum," which is in mimeograph form on the desk of each Senator. We must assume that the President will do everything that memorandum says.

So, for the sake of this discussion, to be lawyerlike, I say to Senator BIDEN, this is a demurrer to his motion, and we assume that the President will do everything it says.

The way to block him from doing this is to turn down the resolution for 200 technicians. That is the acid test. Let us be very clear about this. If you do not want him to do everything in this memorandum, whether the lawyer said it is binding or not binding—and I will explain that in a minute—becomes immaterial. You must assume that he is going to do everything he says he is going to do in that memorandum. Even if he does it, you still want him to go right ahead, and that is why you are letting these 200 technicians go. If you want to block him, turn down this resolution. That is the essence, the substance, of what we are talking about.

When we get to the procedural question as to whether to release this legal memorandum or not—and that is what the argument has been about—the real question is, do you want this interim peace plan to work? Do you consider it an important step to peace in the Middle East, or do you not? If you do, then you assume that the President is going to do everything he says in the memoranda that he is going to do, and you approve the 200 technicians. But if you want to undo the agreement, you present all the demagogs in the world, including the Middle East, with the lawyer's analysis, that he says this is binding and that is not binding and the other is half-binding and this is not specific enough, and then you are finished; it is undone.

We are trying to participate with the President of the United States in the foreign policy of the United States. It is a very fuzzy area, but it is necessary for our people, having learned the lesson in blood and treasure. Therefore, we have to exercise the utmost responsibility. Even if we want to undo this agreement, we should not do it this way, by vitiating it if it passes. That, I suggest, is a sense of responsibility which in this case those who oppose the technician resolution have to have. Often, we have had a sense of responsibility in the things we have opposed. That is very essential, because whether or not you are for it or against it, if it passes, you do not want it undone. If that is what Congress thinks we should do, at least we want to do so in a helpful and auspicious way. This is the way to do it, to publish this memorandum, much of which is valueless.

The legal adviser did not listen carefully and Secretary Kissinger was in my judgment inaccurate in his description and improvident in what he said about the memorandum. And I say this as one of his best friends. He just did not listen carefully. He was passing on international law. He said this is binding and that is not binding under international law, but international law is a very fine, highly esoteric, legal doctrine much debated about and quite unsettled. In his memorandum the legal adviser is not telling you it is not binding because the President does not intend to do it. We must assume that the President intends to do everything in this memorandum with the greatest dispatch and the greatest good faith.

So why should we vitiate it by publishing this document, and when it is directed at a totally different target?

So, Mr. President, I believe the Senate should reject this amendment decisively.

In addition, the Senate should know—and I do not make this as an argument—that this resolution, this amendment, proceeds upon the theory of rule XXXVI, which says:

> All confidential communications made by the President of the United States to the Senate shall be by the Senators and the officers of the Senate kept secret; and all treaties which may be laid before the Senate, and all remarks, votes, and proceedings thereon shall also be kept secret, until the Senate shall, by their resolution, take off the injunction of secrecy, or unless the same shall be considered in open Executive session.

Mr. President, I doubt that this resolution qualifies under this rule, because I believe that it does not refer to a treaty; it is a confidential communication and I have argued it was not yet agreed to by the President when delivered to the committee. But I say that only for the Senate's information. We can go into executive session and read the whole thing, and I think Members will find that what I have just said is absolutely correct. But it is not necessary to do that or to invoke the rule. The fact is that the President will do every single thing that is said in the published document, so the legal opinion does not add or subtract. Therefore, why run the risk of undoing what a majority may wish to do as a monumental, historic act in the search for peace in the Middle East by publishing a document which does not prove it one way or the other?

Mr. HUMPHREY and Mr. CLARK addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. HUMPHREY. How much time do I have remaining?

The PRESIDING OFFICER. Thirty-two minutes.

Mr. HUMPHREY. I yield myself such time as I may need to make one or two observations. The Senator from Iowa was very proper in noting that subsection (b) of section 6 of his amendment notes that the provisions of this section "may not be construed as indicating agreement or disagreement on the part of the Senate or any Member thereof in respect of anything contained in such memorandum"—of course, referring back to the legal memorandum.

So, Mr. President, what we are getting really, is, as I said before, the publication of a legal opinion and that elevates the so-called assurances and understandings which have already been published, are in the public domain, to a threshold which they may not deserve or, more significantly, elevates them to a standing which becomes more flexible.

While it is true that lawyers sometimes have said that executive agreements have the force of treaties, they are not treaties. Treaties are provided for specifically in the Constitution. There is a process for treaties. That process requires a two-thirds vote of the United States for confirmation or ratification. Treaties are the same as an amendment to the Constitution. They are the supreme law of the land.

So, while we may have a legal opinion that an executive agreement may have the force of a treaty, it is not a treaty, nor does it have the standing of a treaty.

Beyond that, Mr. President, I think it is important that we note that the documents that have been released—the four documents—contain all of the assurances, understanding, commitments, and intentions that have been negotiated by the Secretary of State on behalf of the United States of America. Even if the so-called legal memorandum were declassified, it would add nothing to what is already in the public domain.

As the Senator from New Jersey has properly said, fortified by the remarks of the Senator from New York (Mr. JAVITS) it should be understood that those assurances and undertakings were arrived at in good faith, and that it is our intention to fulfill them. But we cannot predict the future. We cannot predict what is going to happen in the Government of Israel or the Government of Egypt 6 months from now. Those assurances and undertakings are predicted upon circumstances that existed at the time of their negotiation and agreement. It is to be hoped that those assurances and undertakings will lend themselves toward peace between the countries and the peoples, as well as the leaders. But any responsible person knows that it is literally impossible to predict the future.

Treaties have been entered into, formal treaties, where the circumstances were changed to such a degree that what was once a friend turned out to be an enemy. Quite obviously, that treaty can no longer remain binding, even if we do not have the time to disassociate ourselves under the terms of the treaty.

Mr. President, I have noted very carefully, on page 211 of the printed hearings, what the Secretary of State had to say. He has been quoted here a great deal today. He said:

> We have submitted all documents containing U.S. commitments. Not all provisions in

these documents amount to binding undertakings. They include:

First, assurances by the United States of our political intentions. These are often statements typical of diplomatic exchange; in some instances they are merely formal reaffirmations of existing American policy. Other provisions refer to contingencies which may never arise and are related sometimes explicitly to present circumstances subject to rapid change.

Second, undertakings or assurances by the United States which are conditional on existing or prior authorization and appropriation of the Congress or which fall within the constitutional authority of the President to conduct the foreign relations of the United States.

Thus, to speak of memoranda of agreement as executive agreements is by no means to say that each of their individual provisions is binding upon the United States. That depends entirely upon the content of the specific provisions in question. And we have submitted our legal analysis with respect to those.

Moreover, nothing in these particular documents constrains congressional action in any issue involving the future legislative process.

The fact that many provisions are not by any standard international commitments does not mean, of course, that the United States is morally or politically free to act as if they did not exist. On the contrary, they are important statements of diplomatic policy and they engage the good faith of the United States so long as the circumstances that gave rise to them continue. But they are not binding commitments of the United States.

I could quote other portions in which the Secretary has very carefully tried to note to us that there is no duplicity. There is no duplicity in the understandings and the assurances that were arrived at; nor is there any denial of certain parts of these which, at the time, under the foreseen circumstances, are not binding. To the contrary, they are binding, providing that the circumstances pertain that make them binding.

All that I am concerned about in this particular amendment is that, by declassifying and adding to this particular resolution the legal memorandum transmitted in connection with the letter of October 6, 1975, of Monroe Leigh, Legal Adviser of the Department of State, to Hon. JOHN J. SPARKMAN—by adding that to this resolution, we, in a very real sense, vitiate the language which is so specific. It says as follows:

The authority contained in this joint resolution to implement the U.S. proposal for an early warning system in Sinai does not signify approval of the Congress of any other agreement, understanding, or commitment made by the executive branch.

I do not say that the legal memorandum has the force of law, but I say that it does weaken that very succinct provision which this committee of ours insisted upon having in this legislation. The committee, in its own report, says:

Further, the Committee has taken pains, both in the language of the resolution before the Senate and in its legislative history, to nail down the point that Congressional approval of the proposal to send 200 technicians to the Sinai Peninsula is precisely that—and that it does not imply approval or disapproval of anything else.

I make the point: It does not vitiate, but it does not rule on the other agreements, assurances, and understandings. By adding the language of the legal memorandum to this Senate Joint Resolution 138, it is my honest judgment, trying to be as objective as I can, that what it does is say, "Look, we said on the one hand that we were not bound; but we said on the other hand, there is a document that floated around in the Committee on Foreign Relations that says, 'Yes, we are bound.' "

What the Secretary of State has asked for, and I think this is most fitting and proper for the man who has to conduct much of our foreign policy, is some degree of flexibility within the framework of a moral position and a political intention or commitment. This is exactly what a President needs. It is exactly what a Secretary of State must have.

Had we kept these documents, the four that give us all these assurances and undertakings, under wraps, had they not been released—first of all, they were released in violation of law to the newspaper. They appeared in full text. Second, they were released by a declassification order of the Senate Committee on Foreign Relations and, I might say, in violation of the rules of the Senate. They have been printed, they are available to every single citizen of the United States and surely to every Member of Congress.

Furthermore, the legal memorandum that seems to be the subject of such concern here does in no way change what the four documents have within them. Those four documents that give the commitments, the assurances, the understandings and the intentions are all there, and they are there for interpretation, they are there for application, and another lawyer may very well interpret it differently than this lawyer. That happens. But they will be fulfilled to the best of our ability if the circumstances that prevail make it possible for them to be fulfilled. But I am quite sure, that if tomorrow morning the Government of Israel, for some peculiar reason—and I do not imagine it would, but should it suddenly enter into some kind of a special relationship with the Soviet Union and, thereby became closely associated with the Soviet Union, I doubt that we would feel the same degree of commitment that the assurances in the four documents reveal at this particular time.

Or, for example, if within a year the Government of Egypt should turn hostile, and should become bitterly anti-American, unwilling to even abide by the agreements, not in open violation but in a sense making them difficult if not impossible to enforce, I doubt that we would be wanting to be bound by some lawyer's interpretation of what is legally binding.

I do not downgrade the importance of the counsel or the Legal Adviser to the State Department. I simply say they come and they go. I also know that it is the fact that Presidents and Secretaries of State frequently change Legal Advisers. Sometimes they do that because they do not like the advice they are getting, just as they change Secretaries of State. If this legal memorandum is so important that we ought to know what is binding and what is not binding, then I suggest that the author of the amendment, who wants to release this legal memorandum, change that amendment to take the legal memorandum and make it the force of law. Then we know exactly what it is all about, because all you have now is an advisory opinion, and if you are going to do that you can do it under the commitments resolution. That commitments resolution, as I read earlier here today, says:

It is the sense of the Senate that a national commitment—

And that means binding—

by the United States results only from the affirmative action taken by the executive and legislative branches of the United States Government by means of a treaty, statute or concurrent resolution of both Houses of Congress specifically providing for such commitment.

That final paragraph of the resolution which is section 5, says specifically that if we approve these 200 observers that this does not signify approval of Congress of any other agreement, understanding or commitment by the executive branch. If we add that legal memorandum there we, in a sense, dilute that provision, we weaken that provision. We, in a sense, say that we understand the lawyer who gave that opinion was right. We understand that that has, if not a binding effect, at least a sense of moral purpose. I prefer that we do not go that extra step, and I want to say to every Member of this body, including the Members of the House of Representatives, if they wish to, the documents have been on file for 3 days, they are down in the Senate, they are available to any Member of the Senate, and they are here, right here on the floor, and any Member of the Senate can see them, that those documents will do nothing for the public that the four documents that have been released have not already done.

It is all there, and it is to be assumed in the four documents that have been released and declassified that is what we will do.

I do not think we ought to assume for a minute that President Ford and Secretary Kissinger will not follow through on what are in the four memorandums that have been declassified. I assume that is what they will do under the prevailing circumstances. I do not think you can presume, if circumstances change radically, that they would be followed through. But if we tried to make them more binding than they are, we make it more difficult for our country to conduct negotiations, and we weaken our opportunity to be a mediator in the Middle East.

Mr. PASTORE. Mr. President, will the Senator yield for a question?

Mr. HUMPHREY. Yes, I yield.

Mr. PASTORE. If we do not codify that advisory opinion by making it a part of the resolution, then where does it leave us?

Mr. HUMPHREY. It leaves us with two choices: First of all, it is available to any Member of Congress. That is No. 1. So it is not as if it is a secret right now, at this very moment.

Second, if you wish you can offer it as a separate resolution so it is not tied to this, because this resolution specifically states that we do not want the approval of the 200 observers in the Sinai to in any way indicate approval or disapproval of anything else.

So if there is a great desire that we have this other matter of the legal memorandum become a sense of the Senate, then I think it ought to be done as a sense-of-the-Senate resolution and not add it on here.

Mr. PASTORE. When the Senator says it does not bind us to any other part of the overall agreement, would that include, of course, the amount of money that might be given to Egypt or to anybody else?

Mr. HUMPHREY. Exactly. That is in the testimony from the Secretary of State. He has made it clear that we will have to consider all budget items and any other items that are recommended here on their own, separate and distinct.

Mr. PASTORE. In other words, what we are doing with this resolution is we are confining ourselves without obligation to anything else to this particular matter of the civilian volunteers.

Mr. HUMPHREY. The agreement itself, the U.S. Government will make every effort to be fully responsive within the limits of the resources of the congressional authorization and appropriation process, and then our committee report makes it very clear that, as we said here;

That approval of the proposal—

That is of the resolution—

to send 200 technicians to the Sinai Peninsula is precisely that, no more, no less, and that it does not imply approval or disapproval of anything else.

We go on to say that the committee has taken pains, both in the language of the resolution before the Senate and in its legislative history, to nail down the points that congressional approval of this proposal to send 200 technicians to the Sinai Peninsula is precisely only that, no more, no less, and that it does not imply approval or disapproval of anything else.

Mr. PASTORE. That is language in the report, which is not law.

Mr. HUMPHREY. That is correct.

Mr. PASTORE. Is there anything in the resolution that carries that out? That is the important thing.

Mr. HUMPHREY. That is correct.

Mr. PASTORE. Will the Senator read that?

Mr. HUMPHREY. Section 5, page 4 of the resolution:

The authority contained in this joint resolution to implement the United States Proposal for the Early Warning System in Sinai does not signify approval of the Congress of any other agreement, understanding, or commitment made by the executive branch.

Mr. PASTORE. I thank the Senator.

Mr. HUMPHREY. That is my argument.

Mr. STEVENSON. Mr. President, will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. STEVENSON. Is the Senator now suggesting that in the future this Congress and future Congresses, this President and future Presidents, can act with respect to appropriations, authorizations, other measures as if this accord did not exist?

Mr. HUMPHREY. We will act as we see fit. The President undoubtedly will send down to Congress the matters he has agreed to. The President and the Secretary of State have indicated, I believe, they would like us to authorize and appropriate a little over $2 billion for military and economic aid to Israel, and approximately $500 million to Egypt. But it is perfectly clear, and they have made it clear, and the resolution makes it clear, that our sending 200 technicians to the Sinai does not commit us to the executive agreement for that amount of money; that we are free to act as we wish, of course.

Mr. PASTORE. Take it or leave it.

Mr. STEVENSON. Is the Senator saying—perhaps I misunderstood him earlier—that the good faith of the United States is not engaged, that our actions in Congress as well as in the executive branch will not be influenced by the assurances, the moral obligations, the good faith?

Mr. HUMPHREY. The good faith of the President and of the Government of the United States is engaged, but may I say that that good faith does not specify any sum of money. There is no specification in the four documents of any particular sum of money.

There is a specification that we will aid Israel with military assistance, that we will provide economic assistance to Egypt, that we will consult on further weapons needs, that we will consult on matters that come to the Security Council.

There are many things that the President has committed himself to as the head of the Government, the Chief of State, and as our chief spokesman on foreign affairs.

But that does not commit the Congress of the United States insofar as anything that relates to the legislative responsibilities of this body.

Mr. STEVENSON. I can understand that any Executive, any President, has no authority to commit this Congress to any future act. For that matter, this Congress has no legal authority to commit a future act.

Mr. HUMPHREY. Exactly right.

Mr. STEVENSON. But it is certainly possible to take action short of the legally binding action which will influence the force of the conduct of this Congress and of future Presidents.

The point that I think should be made in response to the question that was raised by the distinguished Senator from Rhode Island and that the Senator himself, I believe, was making very clearly and explicitly earlier, is that notwithstanding that these assurances, undertakings, and so on, may not rise to the level or degree of a legally binding commitment, that may be a moral obligation, or an engagement of the good faith of the United States, to quote the Secretary of State.

They will affect the actions of this Congress, they will affect the actions of future Presidents. In the future, at some point, this Congress will be called upon, apparently, to act upon a proposal for the supply of oil to Israel.

Mr. HUMPHREY. Yes, by the way——

Mr. STEVENSON. Cannot its action be influenced on that question?

Mr. HUMPHREY. May I say to the Senator that oil supply was specifically spelled out by the Secretary of State as a matter in which there has been an agreement that is legally binding, that the President will send to the Congress that particular proposal, and that is very specific in terms of what it will be.

Others are in much more general language.

I do not deny for a single minute that if the President of the United States enters an agreement such as this, which has received such worldwide attention, that the Congress will be influenced by it.

But may I say, if we did not have the Sinai agreement here, there is no doubt but what there would be Senators in this body would take initiative. One, Senator JACKSON of this body, just a few months ago added an amendment for military assistance for Israel on a defense bill, just like that, he did not wait for the executive branch, we did it on our own.

Obviously we will be and we are being influenced.

I believe, and I want my position clear, that we do find it in our national interest to provide a substantial amount of economic and military assistance to Israel. I think it is important to have relationships between Egypt and Israel on a more friendly basis, and I am willing to go a long way to see it accomplished.

But I do not commit myself as a member of the Foreign Relations Committee to the President's request of $2.5 billion. I may finally end up voting $1.9 billion or $2.1 billion. There will be Senators here who are going to vote for this resolution that will vote against all foreign aid. They will go against it.

It is not that we have obligated ourselves. I am simply saying that the President hopefully can deliver on his commitments—hopefully.

Why did we put this language in here? Because we have had experiences in the past where we did not have this kind of language that separated a resolution for a particular purpose from other follow-ons.

We have had some experiences with former Presidents and by former actions of the Congress. So what we have done here, we simply put up a warning flag to all parties, simply saying that this approval of Senate Joint Resolution 138 stands on its own.

I am sure that the Senator from Illinois is correct when he says that if the President comes forth and makes a recommendation in light of the assurances he has given in these agreements that it will have an effect upon us. Of course, it will.

Mr. STEVENSON. I do not want to prolong this, if the Senator will yield just for one final question.

The Senator said a moment ago, and I do not know if he intended to do so or

not, but that the obligation contained in these with respect to oil, which includes a 1-year reserve for Israel, was a legally binding obligation.

Is the Senator also saying that in the case of that legally binding operation the Congress is free to disregard it?

Mr. HUMPHREY. Yes, it is an obligation by the President on a specific item to present that to the Congress of the United States in specificity.

There is a time period involved in it, there is an amount that is involved in it, that is explicit within the understandings.

I submit that on other items, like weapons systems, for example, and other economic assistance, it is in general terms.

My point was that the President of the United States has specifically committed himself, the honor of his office and of the executive branch of this Government, on the oil question, and in precise terms.

The Secretary of State spelled that out for us. He took that out as a very unique provision in all of the assurances or understandings.

Mr. STEVENSON. Then, if I ask the Senator to finally clarify his position, is it the position of the Senator that Congress will be free to ignore any commitment in here that is regarded, such as the oil commitment, as a legal obligation?

Mr. HUMPHREY. The Senator says to us, and the committee—not HUBERT HUMPHREY, that is inconsequential here—the majority of the committee by a vote of 14 to 2 said just exactly that.

Mr. STEVENSON. No, I beg——

Mr. HUMPHREY. It is right here. It says, and specifically in this section 5——

Mr. STEVENSON. I beg the Senator's—the resolution which I have read very closely says that Congress does not approve. It does not say that Congress disapproves or that it retains its freedom to take a position.

Mr. HUMPHREY. It says that Congress does not approve. In our report, we make it clear that disapprove or approve, we are not committed, and furthermore, the Secretary of State in his own statement to the Congress says we are not committed.

I personally would feel a moral obligation to go along with a good deal of it, speaking for myself. But I think it ought to be clear that the whole history of this legislation, which is precisely spelled out on page 9 of our report, that the committee has taken great care.

This is the language that has been approved.

The committee has taken pains, both in the language of the resolution before the Senate and its legislative history to nail down the point that congressional approval of the proposal to send 200 technicians to the Sinai peninsula is precisely that—no more, no less—and it does not apply either approval or disapproval of anything else.

Mr. PASTORE. Will the Senator yield?

Mr. HUMPHREY. I cannot do more than that.

Mr. PASTORE. I am afraid we have developed a habit in the Senate of complicating a very simple subject.

As I understand what we are actually saying, it is that this is the only part of that overall agreement that we are deciding today.

Mr. HUMPHREY. That is correct.

Mr. PASTORE. It does not bind us on anything else and we can take it or leave it.

Mr. HUMPHREY. The Senator is correct.

Mr. PASTORE. Is that not it?

Mr. HUMPHREY. Exactly.

Mr. PASTORE. I do not know what we are all excited about.

Mr. BIDEN. Will the Senator yield so I can explain to the Senator from Rhode Island why we are getting excited?

Mr. HUMPHREY. On his time.

Mr. BIDEN. On my time.

Mr. PASTORE. All right.

Mr. BIDEN. Why we are getting excited.

Mr. PASTORE. Do not look so calm. Get excited.

Mr. BIDEN. I will in a moment. I have to work myself up to it. I got excited while the Senator was not here and, unfortunately, he did not get a chance to hear that.

But the Senator from New York (Mr. JAVITS), who is an ardent, staunch supporter of this position, the position taken by a majority of the Foreign Relations Committee, said something about 20 minutes ago that I think is absolutely correct.

Again, he has been a defender of the majority position of the committee, consistently.

He said that there should be no mistake made that voting out the 200, is, in fact, assuming that the President is going to do everything he says in the memorandums of accord, and that he has the authority to do that.

Senator JAVITS went on to tell us, and I will say again, and I will state it time and again before this debate is over today, but for the Senator from Rhode Island, everyone, including the Secretary of State, agrees that immediately upon this resolution being reported out, which authorizes 200 technicians to be sent to the Sinai, immediately upon this happening, the Secretary of State will sign the memorandums of agreement which exists between Israel and the United States and the United States and Egypt.

Immediately upon that signing, it is the position of the administration and of many on the committee and on this floor, it will have the full force and effect of a treaty. In international law, an executive agreement will have a binding effect, and if not legally binding, it will have a morally binding effect on the U.S. Government.

The United States of America will be on the line via that executive agreement.

Everyone now agrees with that who has been involved in that debate.

Prior to the time when the Senator from Iowa (Mr. CLARK) and I raised this point in committee, the majority insisted they were separable. Now the same majority agrees they are inextricably tied together. Once we vote out the 200-technicians resolution we vote into effect the executive agreements between us, Israel, and Egypt. The Senator from New York has stated that we must assume each single solitary paragraph of those agreements will be put into full force and effect by the Executive of the United States. Therefore, to make the legalistic argument that all we are doing by voting on this resolution is voting to put 200 technicians in the Sinai is begging the question. What we are doing is setting in motion a chain of events that we must assume will culminate in the President of the United States putting into effect every single aspect of the Memoranda of Agreement—as he interprets them.

Mr. PASTORE. Will the Senator yield?

Mr. BIDEN. I yield for a response from the Senator from Rhode Island.

Mr. PASTORE. That is not the way I have been hearing it here this afternoon. I hope Mr. CASE or Mr. HUMPHREY will get up and give us a rebuttal or refutation of what the Senator just said.

Mr. BIDEN. I can read their statements if they do not have time.

Mr. PASTORE. I am reading the law. The law, as they read it to me, was that this was being separated from all else. Now the Senator from Delaware is telling me that the administration is taking the position that if we do separate this, without coming to Congress they are going to get themselves into a Memoranda of Agreement.

Mr. BIDEN. Absolutely. Unequivocally.

Mr. PASTORE. I would like to hear that answered. We are not separating this, if that is the case. That is what I have been trying to find out.

Mr. BIDEN. The Secretary of State himself says that. I will be able to quote, if I may have just a moment, what the Secretary has said in closed and open hearings. He has said just that. I would like to quote specifically for the Senator from Rhode Island the Secretary of State where he responds to questions by me and others that it is, in fact, the intention of the executive branch to put into effect immediately the Sinai Accords, and that this can only be done if the Congress authorizes that 200 American technicians be sent to the Sinai.

I read from the open hearings in response to questions by me to the Secretary of State. I start off and said:

> Mr. Leigh's memorandum indicates there are certain provisions of the published documents which are viewed as being more binding than others, and so assuming that we in fact vote out a resolution which has the 200 technicians, approve 200 technicians—

Mr. PASTORE. May we have order, please? I would like to hear this.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BIDEN. I will try to begin again. Again, this is in the context of my trying to find out from the Secretary of State whether or not these two items are separable—that is, the four documents and the 200 technicians. I said:

> Now, as I understand it, and I would like to thank Mr. Leigh for getting up this memo, even though it is secret and the committee has not taken a stand on it. I thought we had, by the way. I thought when it was declassified, we could talk about whether the aspects are binding or not, but I will honor that commitment by not doing that. Mr.

Leigh's memorandum indicates there are certain provisions of the published documents which are viewed as being more binding than others, and so assuming that we in fact vote out a resolution which has the 200 technicians, approve the 200 technicians, then as Senator Clark pointed out is the intention of the State Department to recommend that there be a signature, a signing of the documents which are now just merely initiated published documents? Is that correct?

Secretary KISSINGER. That is correct.

Senator BIDEN. Now, so that automatically at that point, since it is the administration's position that the binding provisions are binding with the force of an executive agreement—is that correct?

Secretary KISSINGER. That is correct.

Senator BIDEN. That when that signature is affixed that there are certain provisions of the memorandum agreement that will become binding upon the United States both in international law and as far as the administration is concerned, binding the U.S. Government by her own laws. Is that correct?

Secretary KISSINGER. That is correct, but, of course, one has to analyze what is binding in fact.

Then the Secretary goes on and analyzes the binding effect in the legal memorandum the State Department sent up to us which we cannot declassify. I said: "Of course, we are not allowed to do that."

He said:

No, but the difficulty that this discussion has raised and your questions are—they do go to the heart of the problem. Inevitably in these negotiations the United States, as the central factor in the diplomacy has had to supply an ingredient because otherwise nobody else could have done these negotiations and statements of our intentions, analysis of the situation, given the importance the parties have attached to our views, have played a major role.

Now, in the past these have been handled in a less legalistic manner and therefore have in fact never given rise to any major controversy with any of the parties.

Dr. Kissinger goes on to talk about the degree of how binding each of these provisions are. I do not have this all marked out and I do not want to take the time of the Senate to read the entire discourse. But let me read just a bit:

Senator BIDEN. But we tie into those agreements, don't we?

Secretary KISSINGER. That we tie into by signing.

Signing occurs upon voting out the resolution.

Israel has said they will not enter into this Memorandum of Agreement until the 200 are put in place. We—this is the administration—have said that immediately upon putting the 200 in place, we will sign the agreement.

It has been pointed out to me that I should read the agreement, section 16 of the memorandum of accord with Israel:

The United States and Israel agree that the signature of the protocol of the Egyptian-Israeli agreement and its full entry into effect shall not take place before approval of the United States Congress of the U.S. role in connection with surveillance and observation functions described in the agreement and its annex. The United States has informed the Government of Israel that it has obtained the Government of Egypt——

And it goes on from there.

That refers to the agreement between Israel and Egypt. What I am referring to is in addition to that. There is a legal memorandum which I will dig up for the Senator from, again, the State Department, whereby the State Department says that the condition for signing the Memorandum of Agreement is the placement of the 200 technicians. Immediately upon the passage of this resolution, the administration will affix its signature and immediately therein we will, in fact, have an executive agreement. The point which the Senator——

Mr. PASTORE. Binding us to what?

Mr. BIDEN. Tying us to God only knows what, as interpreted by the administration and as contained in those 16 points. As Senator JAVITS said, we must assume that the President is going to put into force all 16 points of that agreement and thereby bind the United States of America to all of them.

My concern, I say to the Senator from Rhode Island, is that I want this agreement. I have no objection to putting 200 technicians, if we can separate the question of sending them from everything else. That is why I have another amendment which I will offer after this one. I have another amendment which speaks to that question, which says that, by voting out the 200 technicians, the President, in effect, agrees—and we all agree—that the provisions in the Memorandum of Agreement, are good faith intentions only; they do not bind the United States of America. I am prepared to be bound by some of them, but I am not prepared to be bound through this backdoor measure of sending 200 technicians and implying that that is all we are doing.

Mr. ROBERT C. BYRD. Will the Senator yield for a request?

Mr. BIDEN. Yes.

UNANIMOUS-CONSENT REQUEST TO CONSIDER HOUSE JOINT RESOLUTION 683

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately upon the third reading of Senate Joint Resolution 138 the Senate proceed to the consideration of House Joint Resolution 683, without debate thereon.

The PRESIDING OFFICER. Is there objection?

Mr. CLARK. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Iowa reserves the right to object.

Mr. CLARK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STONE. Mr. President, will the Senator yield?

Mr. BIDEN. Permit me one more comment, and then I will yield, in response to the Senator's question. I will take only a minute.

I say to the Senator from Rhode Island, I think that the vast majority of the Members of this body truly believe, as the Senator does, that by voting 200 technicians, we are merely voting 200 technicians, and we are willing to take a gamble for peace on 200 technicians. So is JOE BIDEN.

But the fact of the matter is, unfortunately as Mr. Warnke said, we pay the price for knowledge. At least we in the committee, and those who have listened to the debate, know that the question of the 200 technicians is not all by itself now. We cannot, after this is all over, cover our eyes and say, "We did not know those executive agreements were going into effect; we did not know they were being triggered."

Like the Senator, I would like to see these executive agreements taken up by Congress one at a time. But I submit that once this goes into effect, we in effect waive our right to challenge them, other than by appropriations.

It has been pointed out to me, by the staff and others, that we did that in Cambodia. We cut off the funds. We did it in Vietnam, eventually, and in other places. It is true that through the appropriations process, we can challenge these agreements.

But one other comment about the point Senator STEVENSON was making. He asked the Senator from Minnesota (Mr. HUMPHREY), "Are we not binding ourselves morally when we do that? Are we not going to hear that kind of argument, at least?" I am not doing justice to the Senator's question.

The response was, "Yes, we are. We are doing that, but we can always cut off the money."

Secretary Ball speaks to that question in his testimony. He talks about the ambiguities that exist. I think we have an obligation to Israel and everyone else to say what we mean. But Secretary Ball goes on to point out, in the hearings, that it does matter to him what the capitals of Cairo and Tel Aviv think about what we are committing ourselves to, and it does matter to him what the American people think about what we are committing ourselves to. It is a practical matter, and the Senator from Rhode Island is a very knowledgeable politician, in addition to being a statesman.

The political implications in this, it seems to me, are inescapable. How will we be able to stand on this floor—after knowing what we have set into motion—when Senator HUMPHREY or someone else gets up in years to come and says, "You are right. We do not have a legally binding commitment, but we put our moral obligation on the line to Israel and to the world when we did this in 1975. We knew what we were doing. We knew the moral implications of our action." What do we say? Do we say, "No, we did not know that?" But we do know what we are doing——

Mr. STONE. Mr. President, will the Senator yield?

Mr. BIDEN. I yield for a question, a comment, a criticism, whatever.

Mr. STONE. Would the Senator assume that the executive agreements had already been signed, and now answer the question as to what prerogative Congress would have, and what prerogatives Congress would not have, that would worry the Senator?

Mr. BIDEN. Congress would——

Mr. STONE. Which specifics worry the Senator, assuming the agreements have already been signed?

Mr. BIDEN. Assuming the agreements had already gone into effect?

Mr. STONE. Already been signed.

Mr. BIDEN. All right. I would like to start off with paragraph 10. Paragraph 10 sounds to me like a mutual defense

pact. It looks to me like saying we will go to war. It has been interpreted in closed committee, and we have had glib assurances that that is not what it means; we have constitutional lawyers, including Prof. Raoul Berger and Professor Fisher——

Mr. STONE. Is the Senator saying that by paragraph 10 we have given the President permission to go to war? Is that what the Senator says?

Mr. BIDEN. That is what this Senator says it could mean.

Mr. STONE. The Senator from Florida disagrees with that, and does not see how, by any stretch of the imagination, an advance approval of going to war is given by that paragraph.

Mr. BIDEN. I would like to read that. It says:

10. In view of the long-standing United States commitment to the survival and security of Israel, the United States Government will view with particular gravity—

Mr. STONE. "View with gravity" means going to war?

Mr. BIDEN. Wait a second, if you will. That is the same language that is used in SEATO and NATO and other treaties by which we have said we bound ourselves to go to war.

Mr. STONE. But that paragraph in those other treaties——

Mr. BIDEN. If you will let me finish, then we can talk about it more, if you like.

In view of the long-standing United States commitment to the survival and security of Israel, the United States Government will view with particular gravity threats to Israel's security or sovereignty by a world power. In support of this objective, the United States Government will in the event of such threat consult promptly with the Government of Israel with respect to what support, diplomatic or otherwise—

Mr. STONE. "Consult" was the active word there?

Mr. BIDEN. Sure was.

Mr. STONE. Is consulting fighting?

Mr. BIDEN. "Consult," in fact, is an action word. We would not consult unless we intended to do something about it.

Several Senators addressed the Chair.

Mr. HASKELL. Mr. President, will the Senator from Delaware yield for a comment?

Mr. BIDEN. I yield.

Mr. HASKELL. I would like to address the question of the Senator from Florida.

The PRESIDING OFFICER. The time of the Senator from Delaware has expired.

Mr. HASKELL. I yield myself 5 minutes.

The PRESIDING OFFICER. Does the Senator yield from his own time?

Mr. HASKELL. I yield on my own time.

Mr. CASE. Mr. President, I ask unanimous consent that the Senator from Colorado may have back the time he already yielded back or transferred to the other amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HASKELL. I thank the Senator very much.

I am glad that the Senator from Florida raised that question, although the subject really should be debated in connection with the next amendment.

I think it is very important to point out here that really these agreements, at least in my opinion, from a clear reading of them, could bring U.S. Armed Forces into action in at least two circumstances. I will later go into how they all tie together.

Mr. STONE. Mr. President, will the Senator yield?

Mr. HASKELL. Yes.

Mr. STONE. Without the action of Congress?

Mr. HASKELL. Without anything more than the approval of this memorandum. In at least two circumstances, in my judgment, the United States could be involved.

The PRESIDING OFFICER. Will the Senator from Colorado kindly use his microphone, so that Senators can hear him?

Mr. HASKELL. Yes.

I would call the attention of the Senator from Florida to what appears to be paragraph 14:

In accordance with the principle of freedom of navigation on the high seas and free and unimpeded passage through and over straits connecting international waters, the United States Government regards the Straits of Bab-el-Mandeb and the Strait of Gibraltar as international waterways.

Here is the operative language. Would it be possible to have the attention of the Senator from Florida?

Mr. STONE. Yes.

Mr. HASKELL (continuing):

It—

Meaning the United States—

will support Israel's right to free and unimpeded passage through such straits.

I emphasize "will support." I make the assumption that if someone blocks the Strait of Babel Mandeb, for example, we are committed to break that blockade. And I would stress that if we look at the next sentence, it becomes doubly clear:

Similarly, the United States Government recognizes Israel's right to freedom of flights over the Red Sea and such straits and will support diplomatically the exercise of that right.

That is freedom of flights.

I would ask the Senator to notice the distinction. We will support diplomatically the flights and freedom of air space. There is no such qualifying word on the support of freedom of access.

Mr. STONE. Will the Senator answer the question as to whether this has not been the long-standing rule of the United States of America, with no change, which has been supported in the Law of the Seas Conference specifically, almost word for word?

Mr. HASKELL. No, I am not aware of any commitment of the United States to use force to keep any straits in the world open.

Mr. STONE. There is no use of the word "force" in here.

Mr. HASKELL. How does one "support"? I ask the Senator to please look at the difference in the two sentences. In the one case, we support Israel's right to free and unimpeded access, in the other case of airspace we support diplomatically——

Mr. STONE. If the Senator from Colorado wishes to escalate by putting planes—that is not the point in the paragraph—that is his prerogative. But economically it can be imported in as well as militarily. Support can be economic as well as military. It can be political as well as diplomatic. It can be in many forms and ways.

But for either Senator from Colorado to escalate what is here from consultation, to commitment, to go to war, to escalate, from support, to support militarily is to raise a strawman, in the opinion of the Senator from Florida.

The Senator from Florida wishes to obtain this answer: Does the Senator from Colorado assert that without action of Congress the President, the Executive, could go to war over those straits?

Mr. HASKELL. Unless we adopt as part of the resolution the amendment next to be offered.

I yield the remainder of my 5 minutes.

Mr. CLARK. Mr. President, will the Senator from Colorado yield a few minutes?

The PRESIDING OFFICER. Who yields time?

Mr. STONE. Mr. President, I yield myself 2 minutes on my own time.

The PRESIDING OFFICER. The Chair advises that the Senator has no time remaining.

Mr. CASE. That is the truth.

Mr. CLARK. Mr. President, I ask a question of the Senator from Colorado with regard to that point.

He makes an excellent point. A reasonable interpretation of point 14 could indeed lead one to believe that military commitments could be involved. As the Senator from Florida said, it could mean economic support, it could mean some other kind of support, and it could mean military support.

I ask unanimous consent to have printed in the RECORD a memorandum that has been prepared on this matter by the Senate Legislative Counsel.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM OF LAW

This memorandum addresses three questions:

I. Constitutionally, in view of the far-reaching nature of the agreement with Israel, should the commitments incorporated in the agreement with Israel more properly be handled in the form of a treaty rather than as an executive agreement?

II. Assuming that Congress does not take any action of approval or disapproval concerning the secret agreements, what will be their status in international and domestic law?

III. Could S. Con. Res. 64, if passed by Congress without amendment, be interpreted as constituting congressional approval of the entire package of Middle East agreements in stating that "The President is accordingly encouraged to take such action as may be necessary to fulfill their purposes"?

SUMMARY

I. Constitutionally, Agreement E, and possibly Agreements G and H, are beyond the power of the President to enter into without the advice and consent of the Senate. Agreement F is within the President's power to

make and constitute a valid executive agreement.

II. A. Absent the advice and consent of the Senate, under domestic law Agreement E and possibly Agreements G and H will be without force and effect. The advice and consent of the Senate is not required with respect to Agreement F, and it has full force and effect under domestic law.

B. Because Agreement E is without force and effect under domestic constitutional law, and because Israel should reasonably have known of such constitutional defect, this Office has concluded that such Agreement will be without force and effect under international law in the absence of the advice and consent of the Senate.

If, as we have concluded, Agreement F is a valid executive agreement, it has full force and effect under international law.

Because we are uncertain as to the validity of Agreement G under domestic constitutional law, it would probably be unfair to conclude that Israel should reasonably have known of any such potential constitutional defect. We therefore conclude that Agreement G is probably of force and effect under international law.

Because we are uncertain as to the validity of Agreement H under domestic constitutional law, it would probably be unfair to conclude that Egypt should reasonably have known of any such potential constitutional defect. We therefore conclude that Agreement H is probably of force and effect under international law.

ANALYSIS

I. Constitutionally, in view of the far-reaching nature of the agreement with Israel, should the commitments incorporated in the agreement with Israel more properly be handled in the form of a treaty rather than as an executive agreement?

In answering this question it is necessary to examine (A) the constitutional distinction between a treaty and an executive agreement; (B) the precise nature and extent of United States commitments to Israel in each of the four agreements; and (C) the application of constitutional principles to each agreement.

(A) Constitutional Law: Treaties and Executive agreements under the Separation of Powers Doctrine

The scope of the President's authority to make executive agreements is unclear. No test is prescribed by the Constitution for determining whether a Presidential agreement involving a particular subject matter is *ultra vires*. Nor is any one test universally accepted. Rather, the standards must be determined from an examination of various sources. Considerations relevant to this separation-of-powers issue include (1) the text of the Constitution; (2) the intent of the framers; (3) actual practice; (4) Supreme Court and other cases; (5) criteria suggested by various authorities; and (6) criteria employed by the Department of State.

(1) The text of the Constitution

The Constitution confers no express authority upon the President to enter into agreements wholly on his own. While article II, section 1 does provide that "executive Power shall be vested in a President of the United States," section 2 of that article more specifically states that the President "shall have the power, by and with the consent of the Senate, to make Treaties, provided two thirds of the Senators present concur."

(2) Intent of the Framers

In the absence of a more explicit assignment of power by the constitutional text, the way in which the Framers understood the separation of powers in this context takes on added significance. It is clear that the Framers intended not only to circumscribe narrowly the authority of the President to act unilaterally in this area, but also that they contemplated the closest possible collaboration between the President and the Senate in entering into international agreements. The observations of several Framers are both representative and illustrative of their intent.

(a) John Jay cautioned against delegation of the treaty-making power:

"The power of making treaties is an important one especially as it relates to war, peace, and commerce; and it should not be delegated but in such a mode, and with such precautions, as will afford the highest security that it will be exercised by men the best qualified for the purpose, and in the manner most conducive to the public good." *The Federalist* No. 64, at 420.

(b) James Madison regarded treaty-making as more a legislative than an executive function:

". . . There are sufficient indications that the power of treaties is regarded by the constitution as materially different from mere executive power, and as having more affinity to the legislative than to the executive character." 6 *J. Madison, Writings* 138 (Hunt ed. 1910), Chapter II, note 12.

(c) Even Hamilton, no advocate of legislative power, believed that the legislative branch had to be included in the powers of making international commitments:

"The power in question seems therefore to form a distinct department, and to belong, properly, neither to the legislative nor to the executive. The qualities elsewhere detailed as indispensable in the management of foreign negotiations, point out the Executive as the most fit agent in those transactions; while the vast importance of the trust, and the operation of treaties as laws, plead strongly for the participation of the whole or a portion of the legislative body in the office of making them." Hamilton, *The Federalist* No. 75.

Hamilton noted that although the King of Great Britain could make treaties by himself, this power was denied to the President:

"In this respect, therefore, there is no comparison between the intended power of the President and the actual power of the British sovereign." *The Federalist* No. 69.

(3) Actual practice

(a) *Treaties vs. executive agreements.* Custom and usage reveal no consistent pattern by which executive agreements and treaties might be distinguished and suggest that various Presidents have not adhered to the intent of the Framers. Important international agreements have been entered into on the President's own motion:

"In 1817, the Rush-Bagot Agreement disarmed the Great Lakes. *Root-Takahira* and *Lansing-Ishii* defined American policy in the Far East. A Gentlemen's Agreement with Japan (1907) limited Japanese immigration into the United States. Theodore Roosevelt put the bankrupt customs houses of Santo Domingo under American control to prevent European creditors from seizing them. McKinley agreed to contribute troops to protect Western legations during the Boxer Rebellion and later accepted the Boxer Indemnity Protocol for the United States. Franklin Roosevelt exchanged over-age destroyers for British bases. Potsdam and Yalta shaped the political face of the world after the Second World War. Many Presidents have concluded agreements settling claims between the United States and foreign governments." L. Henkin, *Foreign Affairs and the Constitution* (1972) at 179–180.

At the same time, agreements have been transmitted to the Senate as treaties which involve matters of less than momentous international import. Only last week, for example, the Committee on Foreign Relations concluded hearings on treaties relating to the status of three uninhabited coral reefs in the Caribbean; the regulation of shrimp fishing off the coast of Brazil; and international regulations for preventing collisions at sea.

The trend toward using executive agreements rather than treaties has accelerated in recent years. In 1930, the United States concluded twenty-five treaties and only nine executive agreements.

In 1968, however, the United States concluded sixteen treaties and 266 executive agreements, and by January 1, 1972, 974 treaties and 4,359 executive agreements were in force for the United States. (Testimony of Hon. Sam Ervin, "Congressional Oversight of Executive Agreements," hearings before the subcommittee on Separation of Powers of the Committee on the Judiciary, United States Senate, 92d Cong., 2d Sess., on S. 3475 (U.S. Government Printing Office: Washington, 1972) at 3.)

(b) *Congressional efforts to restore the constitutional balance.* The Congress has by recent legislation attempted to restore the constitutional balance.

In 1969 the Senate agreed to the National Commitments Resolution, which warned Presidents that the Senate intends to exercise its constitutional role and reserves the right to decline to implement presidential commitments.[1]

In 1972 the Senate agreed to S. Res. 214, expressing its sense that a 1971 presidential agreement with Bahrain, which provided for the use of military facilities by the United States in Bahrain, should be submitted to the Senate as a treaty.

And in 1973 the Congress enacted the War Powers Resolution, which prohibits the inference from any treaty, of authority to introduce the armed forces into hostilities unless such treaty is implemented by legislation specifically authorizing the introduction of the armed forces into hostilities (sec. 8 (a) (2)).

(c) *The "Congressional-Executive Agreement".* In addition to the extremes of the "sole" executive agreement and the treaty, an intermediate vehicle has developed. The "Congressional-Executive" agreement—an agreement made by joint authority of the President and a majority of each House of the Congress—dates from the early days of the Nation's constitutional history. It has been used to negotiate agreements on a range of subjects, including postal relations, lend-lease, nuclear reactors, copyright, and most notably trade agreements. Normally executive agreements of this type are entered into pursuant to specific statutory authority, and even then may be subject to congressional approval or disapproval after they have been entered into (see, e.g., the Trade Act of 1974). Controversy regarding the interchangeability of such agreements with treaties has abated in recent years, but the question of their legal equivalence has not been fully settled.

(4) Supreme Court cases

We have not been able to locate any case in which the Supreme Court considered whether an executive agreement was *ultra vires* for lack of Senate advice and consent. We have located three tangentially relevant Supreme Court cases, however, and one Court of Appeals case which may provide some guidance.

(a) In *Holmes* v. *Jennison*, 14 Peters 540, 572 (1840), the Supreme Court held that, when the Governor of Vermont sought to extradite one Holmes to Canada, the Governor was in effect entering into an agreement with Canada which Vermont could not do without congressional consent. Chief Justice Taney adopted Vattel's description of a treaty as a compact made "for perpetuity, or for a considerable time" requiring "repeated acts". Executive agreements, on the other hand, had "temporary matters for their object" and were "accomplished by one single act."

---

[1] For the text of Resolution see page 41 of this Memorandum.

(b) In *Valentine* v. *U.S. ex rel Neidecker*, 299 U.S. 5 (1936), another extradition case, the Supreme Court held that the President did not have the power to extradite to France one Neidecker in the absence of a treaty or Act of Congress requiring such extradition. The Court did not treat the case as one involving an executive agreement, but it seems likely that at least an informal one had been made. By implication, the Court thus seems to have held that the making of such agreement was beyond the President's power.

(c) In *United States* v. *Belmont*, 301 U.S. 324 (1937), the Supreme Court appeared to take a step in the opposite direction. Mr. Justice Sutherland sustained presidential authority to enter into an executive agreement with the Soviet Union (the Litvinov Agreement) involving an assignment to the United States of all claims by the Soviet Union against United States nationals. The Court failed to discuss, however, the distinction between the President's authority to *negotiate* with the Soviet Government and his authority, or lack thereof, to determine the *form* which any resulting agreement should take. Furthermore, Sutherland's opinion emphasized that the agreement was part of one transaction which included the recognition of the Soviet Union. Since the power to recognize foreign governments is exclusively granted to the President by the Constitution, arguably this case validates the use of executive agreements only where such a specific constitutional power exists.

(d) In *United States* v. *Capps*, 204 F. 2d 655 (4th Cir. 1953), the acting Secretary of State and the Canadian Ambassador to the United States entered into an agreement regarding the export of Canadian potatoes into the United States. The United States alleged that the importing company had breached the agreement and sued the company for damages. The Court of Appeals affirmed a judgment for the company on the ground that the executive agreement was void. But, significantly, the court invalidated the agreement not because it found that a treaty was required to accomplish the end sought, but rather because the executive failed to comply with a specific statute limiting its power to ban imports. Thus, although the court suggested that the executive lacked inherent power to regulate interstate and foreign commerce, it did not actually base its holding on that theory.

(5) Comments of authorities and views of the Committee on Foreign Relations

Various commentators and authorities have viewed the distinction between treaties and executive agreements as turning on the importance of the subject matter.

(a) In 1939 an Assistant Secretary of State wrote:

"International agreements involving political issues or changes of national policy and those involving international arrangements of a permanent character usually take the form of treaties. But international agreements embodying adjustments of detail carrying out well-established national policies and traditions and those involving arrangements of a more or less temporary nature usually take the form of executive agreements." Sayer, *The Constitutionality of the Trade Agreements Act*, 39 Colum. L. Rev. 751, 755 (1939).

(b) An Attorney General's opinion of 1940, dealing with the exchange of over-age destroyers and obsolescent military materials for the acquisition of optional naval and air bases, also focused on the extent of future commitments promised by the United States, suggesting that Senate consent is not necessary for agreements which impose no obligation upon Congress, such as the obligation to appropriate money. 39 Op. Att'y. Gen. 484, 487 (1940).

(c) This Committee has also endorsed a test based on the importance of the subject matter of the agreement. It noted that the "traditional distinction between the treaty as the appropriate means of making significant political commitments and the executive agreement as the appropriate instrument for routine, nonpolitical arrangements has substantially broken down." "National Commitments," Report of the Committee on Foreign Relations of the United States Senate, S. Rept. No. 91–129, 91st Cong., 1st Sess., 26 (1969). It continued that "in some instances we have come close to reversing the traditional distinction between the treaty as the instrument of a major commitment and the executive agreement as the instrument of a minor one." *Id.* at 28.

(d) Finally, the Senate expressed the belief that an agreement with Portugal and an agreement with Bahrain regarding bases each was "clearly a matter of sufficient importance to necessitate its submission to the Senate as a treaty". S. Res. 214, 92d Cong., 1st Sess., Mar. 3, 1972.

(6) Criteria employed by the Department of State

The Department of State, in its so-called "Circular 175 Procedure", has codified standards to which it gives "due consideration" in determining whether to employ the treaty or executive agreement mode:

a. The extent to which the agreement involves commitments or risks affecting the nation as a whole;

b. Whether the agreement is intended to affect State laws;

c. Whether the agreement can be given effect without the enactment of subsequent legislation by the Congress;

d. Past United States practice with respect to similar agreements;

e. The preference of the Congress with respect to a particular type of agreement;

f. The degree of formality desired for an agreement;

g. The proposed duration of the agreement, the need for prompt conclusion of an agreement, and the desirability of concluding a routine or short-term agreement; and

h. The general international practice with respect to similar agreements. 11 *Foreign Affairs Manual* § 721.3 (October 25, 1974).

Conclusion

Strong support exists for the proposition that an agreement which—

(1) relates to a subject matter of exceptional national importance;

(2) constitutes a commitment within the meaning of the National Commitments Resolution; or

(3) qualifies as a treaty under the "Circular 175" criteria employed by the Department of State

is in violation of the Constitution if entered into by the President without the advice and consent of the Senate.

(B) Nature and Extent of United States Commitments to Israel

In order to determine whether any of the four secret agreements should constitutionally be regarded as a treaty, the precise nature and extent of the commitments of the United States under each must be examined.

(1) Agreement E—Memorandum of Agreement Between the Governments of Israel and the United States, September 1, 1975

Agreement E is written in such broad and general terms that any attempt to determine the specific nature and scope of United States commitments under such agreement is, in most instances, totally impracticable. The attention of the Committee is directed to each paragraph of such Agreement, as follows:

¶1. *Israeli defense requirements.* What is meant by "fully responsive"? No termination or renewal date is set forth; does "on an on-going and long-term basis" mean in perpetuity? What do "other defense requirements" include? Military advisors? Combat forces? Covert activities? What does "military equipment" include? Sophisticated weapons systems? Delivery systems for nuclear warheads? If so, has Israel promised not to use nuclear weapons in connection with such delivery systems? Does such promise refer only to first use? Does it apply even if Israel's survival as a nation is threatened? If such a promise exists, is it in writing? Is it a part of Agreement E? Has it or will it be transmitted to the Congress? In the event the United Nations takes "preventive or enforcement action" against Israel within the meaning of article 2, paragraph 5 of the United Nations charter,[2] does the United States undertake to continue giving such assistance in violation of the charter?

¶2. *Long-term supply needs.* To what extent may Congress contribute to the "joint study by military experts"? Will its results be made known to the Congress? Will congressional approval be sought? What does "sympathetic" mean? Does this preclude careful scrutiny? As to "advanced and sophisticated weapons", see comments on ¶1 above.

¶3. *Oil arrangements.* The one-year's notice requirement prior to termination applies only with respect to paragraph 3; does this imply that the rest of the Agreement is not subject to termination by either side? What are Israel's "normal requirements"? As of what date will such requirements be determined? Does "domestic consumption" include domestic *military* consumption? At what price and on what terms and conditions will the United States "promptly make oil available for purchase by Israel"? Will the annual review of "Israel's continuing oil requirement" include any congressional contribution? Will such sales continue if Israel acts in violation of the U.N. charter or international law?

¶7. *Effect of Egyptian violation of Egypt-Israel Agreement.* Does "any Egyptian violation" include a non-material violation? Which party, the United States or Israel, determines whether Egypt is in violation? Does this provision apply even if Israel is also in violation? What does "possible remedial action by the United States" include? Military advisors? Combat forces? Covert activities? Is congressional approval of any such action required?

¶8. *Security Council votes.* Does this provision apply even if Israel is in violation of international law or the United Nations charter or its agreement with Egypt?

¶9. *Proposals detrimental to Israel.* (See comments on ¶8.) Does this apply only with respect to the United Nations? If so, does it relate to the Security Council, or to the General Assembly as well?

¶10. *Threats to Israeli security.* (See comments on ¶1 and ¶8 above.) What does "view with particular gravity" mean? What constitutes a "threat to Israel's security or sovereignty"? Which nations are world powers? Would it include a "preventive or enforcement action" under article 2, paragraph 5 of the United Nations charter sponsored by the United Nations? Does "support, diplomatic or otherwise" include the introduction of the United States armed forces into hostilities? How does the executive branch presently interpret United States "constitutional practice"? Section 8 of the War Powers Resolution prohibits the inference of congressional authority to introduce the armed forces into hostilities, from a treaty or statute except under certain conditions; be-

[2] 5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action. United Nations Charter, article 2, paragraph 5.

cause Agreement E is neither a treaty nor a statute, but rather is an executive agreement, might the executive branch and Israel conceivably draw such an inference from it?

¶11. *Emergency military supply operation.* What weapons will be re-supplied? At what cost and under what terms and conditions? Will such operation be undertaken if Israel is in violation of the United Nations charter or international law? If it constitutes a violation by the United States of article 2, paragraph 5 of the charter? If it requires introduction of the armed forces into hostilities? Is congressional authorization required?

¶12. *Validity of Egypt-Israel Agreement.* If the "validity and duration" of the Egypt-Israel Agreement are "not conditional upon any act or developments between the other Arab states and Israel", does the United States view Egypt as being bound by that Agreement even if Israel commits an act of aggression against another Arab state which may be an ally of Egypt?

¶13. *Negotiations with Jordan.* Does this provision apply with respect to negotiations between the United States and Jordan or between Israel and Jordan, or both? To what extent does this provision preclude the consideration of topics other than "an overall peace settlement"?

¶14. *Freedom of navigation and flights.* Is the commitment of the United States to "support Israel's right to free and unimpeded passage" a commitment to do so militarily? Is it a commitment to do so even if Israel exercises such right of passage for aggressive purposes? Should Congress infer from the absence of any reference to United States "constitutional practices" (in this and in ¶¶2, 10, & 11) that the executive branch intends to decide upon support measures without consulting or seeking the authorization of Congress? Will the United States "support diplomatically" Israel's "right to freedom of flights over the Red Sea" even if such flights are for aggressive purposes? What is the significance of omitting the word "diplomatically" before "support" in the first sentence?

¶16. *Effective date.* What does "approval by the United States Congress" mean? If the Congress were by resolution simply to express its sense that the President already has the constitutional and statutory authority to carry out the surveillance and observation functions, would it be deemed to have approved the role of the United States for purposes of this paragraph?

Conclusion. This Office can provide little assistance in determining what specific obligations are undertaken by the U.S. under Agreement E. There are various "canons of construction" for the interpretation of treaties, as there are for statutes, but these are primarily matters of common sense.[3] (The committee may wish to determine whether the executive branch has entered into oral understandings, informal or otherwise, for the purpose of providing clarification.)

Because of the vagueness and numerous uncertainties of Agreement E, which the above analysis reveals, it is difficult to predict the ultimate impact of the agreement. This unpredictability is contrary to a basic purpose of legal systems, and has often been condemned by courts. In criminal law, for example, statutes have been held "void for vagueness" when they were "so vague that men of common intelligence must necessarily guess at [their] meaning and differ as to [their] application". *Connaly* v. *General Construction Co.*, 269 U.S. 385 (1926). In civil law, a contract may be void unless it sets forth precisely what performance obligations are undertaken by each party. As one court held, "an offer must be so definite in its terms, or require such definite terms in the acceptance, that the promises and performances to be rendered by each party are reasonably certain." *Michell Novelty Co.* v. *United Manufacturing Co.*, 94 F. Supp. 612 (N.D. Ill. 1950). One reason for the law's dislike for ambiguity is that it makes possible broad but still reasonable interpretations, thereby engendering unpredictable results. Thus in assessing the nature, extent, and desirability of the commitments made in Agreement E by the United States, the Committee may wish to view the Agreement in terms of the broadest reasonable construction to which it could be subjected either by Israel or by a United States President. So viewed, the Agreement may be construed to provide, *inter alia*, as follows:

1. The United States will introduce its armed forces into hostilities for the purpose of—

(A) taking remedial action in the case of an Egyptian violation of any of the provisions of the Agreement (¶ 7);

(B) defending Israel against threats by a world power (¶ 10);

(C) maintaining Israel's right to free and unimpeded passage through the straights of Bab-el-Mandeb and the Straight of Gibraltar (¶ 14); and

(D) carrying out a military supply operation to Israel in an emergency situation (¶ 11).

2. United States economic and military assistance to Israel will be substantial and will include sophisticated weapons systems and systems capable of delivering nuclear weapons.

3. The above obligations are undertaken without regard to—

(A) the financial cost to the United States;

(B) the aggressive nature of any act by Israel;

(C) any preventive or enforcement action by the United Nations against Israel, or the fact that the fulfillment of such commitments could under certain circumstances be in violation of the United Nations charter;

(D) any lapse of time or change in the relationship between the United States and Israel; or

(E) except in the case of commitments set forth in paragraph 1 of Agreement E, the absence of approval of the Congress.

(2) Agreement F—Memorandum of agreement between the countries of Israel and the United States: The Geneva Peace Conference

Agreement F deals with United States policy with respect to recognition of the Palestine Liberation Organization and with matters of diplomacy and strategy to be followed at the Geneva Peace Conference and in the United Nations. No further commitments appear to be made.

(3) Agreement G—Assurances from United States Government to Israel

The language of this Agreement raises questions similar to those raised by Agreement E. Does "resolved" mean that the United States is "committed" or simply "intends" to "maintain Israel's defensive strength"? How "advanced" is the equipment involved? Does "supply" mean "delivery", and, if so, is the U.S. bound to deliver equipment during outbreaks of hostilities? On what terms and conditions will the items be supplied? Must supply be continued in the event Israel commits an act of aggression or in the event such supply would constitute a violation of article 2, paragraph 5 of the United Nations Charter by the United States? Does the United States intend to supply F–16 aircraft without a "joint study" of the kind to which provision of the Pershing ground-to-ground missiles is subject? Will items provided be drawn from existing inventories or from new production? At what price will they be provided? Is "the view to giving a positive response" strong enough to constitute a commitment?

(4) Agreement H—Assurances from United States Government to Egypt

The language of this Agreement raises questions similar to those raised by Agreements E and G. On what date does the Agreement take effect? Specifically:

¶1. Does "in the first instance" imply that economic channels may be resorted to in the event diplomatic channels fail?

¶2. Does "an Israeli violation" include a non-material violation? Which party, the United States or Egypt, determines whether Israel is in violation? Does this provision apply even if Egypt is also in violation? What does "possible remedial action by the United States" include? Military advisors? Combat forces? Covert activities? Must Congress approve such remedial action? Must "remedial action" be taken by the United States even if Egypt commits an act of aggression against Israel or violates the Egypt-Israel agreement?

¶3. Will such technical assistance be provided on a grant basis or under a sales arrangement? If the latter, at what price? Must assistance continue if its provisions would constitute a violation of article 2, paragraph 5 of the United Nations Charter?

¶4. (See ¶3 above.) Must such assistance continue regardless of a change in the relationship between Egypt and the United States? For what period of time will such assistance continue? In what amount will it be requested of the Congress?

(C) Application of Constitutional Principles to Each Agreement

(1) Agreement E—Memorandum of agreement between the governments of Israel and the United States, September 1, 1975

(a) *Importance of Subject Matter.* As indicated, the provisions of Agreement E are subject to varying interpretations. Under the broadest reasonable construction, this office would conclude that the subject matter is one of exceptional national importance.

(b) *National Commitments Resolution.* Under the broadest reasonable interpretation, Agreement E seems clearly to be a "promise to assist" Israel at least "by the use of the armed forces" and without question "by the use of the . . . financial resources of the United States", both "immediately" and also "upon the happening of certain events". Thus, the obligations undertaken in Agreement E clearly constitute a "national commitment" within the meaning of clause 1 of the National Commitments Resolution. In clause 2 of that resolution the Senate expressed its sense that a national commitment "results only from affirmative action taken by the executive and legislative branches of the United States Government by means of a treaty, statute, or concurrent resolution of both Houses of Congress specifically providing for such commitment." Inasmuch as Agreement E does not take the form of a "treaty, statute, or concurrent resolution", that agreement cannot, according to the National Commitments Resolution, result in a commitment by the United States.

(c) *"Circular 175" Criteria.* In determining the application of the "Circular 175" criteria. Agreement E will again be given its broadest reasonable construction.

a. *Commitments and risks.* As discussed in section (b) above, it seems clear that Agreement E involves both commitments and risks affecting the Nation as a whole.

---

[3] E.g., it is not permissible to interpret what has no need of interpretation; the duty is to give effect to the expressed intention of the parties; the whole of the treaty must be taken into consideration; words must be given their ordinary and natural meaning in the context in which they occur; all treaties must be interpreted so as to exclude fraud. *See generally* 14 Whiteman, *Digest of International Law*, section 39 (1970). In drafting legislation, it is the policy of this office that statutory language should be sufficiently clear as to make unnecessary resort to canons of construction.

b. *Effect on State laws.* As far as we can determine, no provision of the Agreement is intended to affect any State laws.

c. *Need for subsequent legislation.* Paragraph (1) of Agreement E refers to "congressional authorization" as a possible restriction upon United States responsiveness to Israel's defense, economic, and energy requirements. Presumably, the Agreement thereby contemplates military and economic assistance, to the extent authorized by Congress. Thus it appears that key portions of the Agreement cannot be given effect without the enactment of subsequent legislation by the Congress.

d. *Past practice regarding similar agreements.* A review of mutual defense treaties and collective security treaties in effect between the United States and various countries reveals that a number of such treaties contain language roughly comparable to paragraph 10 of Agreement E.

For example the North Atlantic Treaty, 66 Stat. 2241; TIAS 1964; 34 UNTS 243, provides as follows:

"Article 5

"The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all; and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area."

The Mutual Defense Treaty between the United States of America and the Republic of the Philippines, 3 UST 3947; TIAS 2529; 177 UNTS 133, provides as follows:

"Article III

"The Parties, through their Foreign Ministers or their deputies, will consult together from time to time regarding the implementation of this Treaty and whenever in the opinion of either of them the territorial integrity, political independence or security of either of the Parties is threatened by external armed attack in the Pacific."

The Security Treaty between Australia, New Zealand, and the United States of America, 3 UST 3420; TIAS 2493; 131 UNTS 83, provides as follows:

"Article III

"The Parties will consult together whenever in the opinion of any of them the territorial integrity, political independence or security of any of the Parties is threatened in the Pacific."

The Mutual Defense Treaty between the United States of America and the Republic of Korea, 5 UST 2368; TIAS 3097; 238 UNTS 199, provides as follows:

"Article II

"The Parties will consult together whenever, in the opinion of either of them, the political independence or security of either of the Parties is threatened by external armed attack. Separately and jointly, by self help and mutual aid, the Parties will maintain and develop appropriate means to deter armed attack and will take suitable measures in consultation and agreement to implement this Treaty and to further its purposes."

And the Southeast Asia Collective Defense Treaty and protocol thereto, 6 UST 81; TIAS 3170, provides as follows:

"Article IV

"1. Each Party recognizes that aggression by means of armed attack in the treaty area against any of the Parties or against any State or territory which the Parties by unanimous agreement may hereafter designate, would endanger its own peace and safety, and agrees that it will in that event act to meet the common danger in accordance with its constitutional processes. Measures taken under this paragraph shall be immediately reported to the Security Council of the United Nations."

Accordingly, we would conclude that past United States' practice with respect to similar agreements indicates that such agreements have been transmitted to the Senate as treaties.

e. *Preference of the Congress.* On June 25, 1969, the Senate agreed to the National Commitments Resolution expressing its sense that a national commitment within the meaning of clause (1) thereof results only when a treaty, statute, or concurrent resolution provides for such commitment. As indicated above, the obligations undertaken in Agreement E undoubtedly constitute a commitment within the meaning of clause (1). We thus conclude that the Senate has expressed its preference that the commitments made by an agreement of this particlular type be embodied in a treaty, statute, or concurrent resolution specifically providing for such commitment, and that the Congressional preference would be that Agreement E not be dealt with as an executive agreement.

f. *Degree of formality desired.* This Office is of course unable to determine what degree of formality was desired by the executive branch for Agreement E. From the standpoint of the Congress, however, as the subject matter becomes more important, the formality of the treaty mode may be more desirable.

g. *Proposed duration, need for prompt conclusion, and desirability of concluding a routine or short-term agreement.* With the exception of the provision relating to oil sales and supply, it appears that Agreement E is intended to be of indefinite duration. The Agreement clearly is not "routine"; however, the policy judgments inherent in the other two criteria of paragraph g. preclude an evaluation by this Office.

h. *General international practice.* Because of time limitations we have been unable to survey general international practice with respect to similar agreements.

Conclusion. It is the opinion of this Office, having considered the "Circular 175" criteria as applied to Agreement E, that those which we are able to evaluate weigh heavily in favor of the conclusion that Agreement E should be treated as a treaty rather than an executive agreement.

(d) *Conclusion Regarding Agreement E.* Agreement E, given its broadest reasonable construction, relates to a subject matter of exceptional national importance, constitutes a commitment within the meaning of the National Commitments Resolution, and requires, as a treaty, the advice and consent of the Senate under the "Circular 175" criteria employed by the Department of State.

(2) Agreement F—The Geneva Peace Conference

(a) *Importance of the Subject Matter.* As indicated, the provisions of Agreement F relate solely to matters of diplomatic relations and international negotiations. It is questionable whether the subject matter is one of exceptional national importance, and in any event, it is the opinion of this Office that the conduct of diplomatic relations and international negotiations is ancillary to the President's "recognition power" of section 3, article II of the United States Constitution and is thus exclusively presidential.

(b) *National Commitments Resolution.* Agreement F does not contain "a promise to assist" Israel "by use of the Armed Forces or financial resources of the United States". Accordingly, for purposes of the National Commitments Resolution, it is not regarded as a commitment and thus may result in a binding commitment in the absence of a treaty, statute, or concurrent resolution providing for such commitment.

(c) *"Circular 175" Criteria.*

a. *Commitments and risks.* Agreement F would not appear to involve any substantial commitment or risk affecting the Nation as a whole.

b. *Effect on State Laws.* There is no indication that Agreement F is intended to affect State laws.

c. *Need for subsequent legislation.* The Agreement can be given effect without the enactment of subsequent legislation by the Congress.

d. *Past practice regarding similar agreements.* We have not been able to locate any instance in which a similar agreement has been submitted as a treaty.

e. *Preference of the Congress.* There is no indication that the Congress prefers that this particular type of agreement be dealt with as a treaty.

f. *Degree of formality desired.* There is no reason to assume that a high degree of formality is desired on the part of either the executive branch or the Congress.

g. *Proposed duration, need for prompt conclusion, and desirability of concluding a routine or short-term agreement.* The portions of the Agreement dealing with recognition of the Palestine Liberation Organization apparently are of indefinite duration, although other provisions relate to obligations undertaken within definite periods of time.

h. *General international practice.* Because of time limitations we have been unable to survey general international practice with respect to similar agreements.

Conclusion. It is the opinion of this Office that under the "Circular 175" criteria Agreement F should be considered an executive agreement.

(d) *Conclusion Regarding Agreement F.* Agreement F does not appear to relate to a subject matter of exceptional national importance, and, in any event, relates to matters within the exclusive constitutional power of the President. It does not constitute a commitment within the meaning of the National Commitments Resolution, nor does it qualify as a treaty under the "Circular 175" criteria employed by the Department of State. Accordingly, it is the conclusion of this Office that under the United States Constitution Agreement F constitutes a valid executive agreement and will have full force and effect under domestic law without the advice and consent of the Senate.

(3) Agreement G—Assurances from United States Government to Israel

(a) *Importance of Subject Matter.* Under the broadest reasonable construction it appears that the United States is committed to providing certain types of advanced and sophisticated military equipment. But because the words "resolved" and "with the view to giving a positive response" are ambiguous, the legal status of the United States commitment is unclear. There appears to be no language which could be cited to support the introduction of the United States Armed Forces into hostilities. Although Agreement G may be one of exceptional national importance, this is not necessarily so, and the Agreement may not be a treaty under this subjective test.

(b) *National Commitments Resolution.* Under the broadest reasonable interpretation, Agreement G clearly constitutes a "promise to assist" Israel "buy the use of . . . financial resources of the United States," possibly not "immediately" but clearly "upon the happening of certain events," namely, upon the conclusion of the "joint study of high technology and sophisticated items". Inasmuch as no "treaty, statute, or concurrent resolution" provides for the commitments contained in Agreement G, under the National Commitments Resolution no commitment of the United States has resulted under Agreement G.

(c) *"Circular 175" Criteria.* The application of the "Circular 175" criteria will assume that Agreement G will also be given its broadest reasonable construction by each party thereto.

a. *Commitments and risks.* Agreement G clearly involves commitments affecting the Nation as a whole. Whether risks are also involved is uncertain because the provision regarding Pershing missiles and other high technology and sophisticated items is vague regarding the terms and conditions under which the United States would provide such material to Israel.

b. *Effect on State laws.* As far as we can determine no provision of Agreement G is intended to affect any State laws.

c. *Need for subsequent legislation.* The ability of the executive to provide the items indicated clearly is dependent upon sufficient congressional authorizations. The final sentence refers specifically to "approval by the U.S. Congress".

d. *Past practice regarding similar agreements.* Agreements for the provision of military equipment, including high technology and sophisticated items, have seldom taken the form of treaties.

e. *Preference of the Congress.* As indicated above, there seems little question that the obligations undertaken in Agreement G constitute a commitment within the meaning of clause 1 of the National Commitment Resolution. We would thus conclude that the Senate has expressed its preference that the commitments made by an agreement of this particular type be embodied in a treaty, statute, or concurrent resolution specifically providing for such commitment, rather than in an executive agreement.

f. *Degree of formality desired.* Again, this Office is unable to determine what degree of formality was desired by the executive branch for Agreement G. From the standpoint of the Congress, however, the degree of formality desired may be viewed as a function of the degree of importance attached to the subject matter, with matters of prime importance submitted as treaties and matters of a routine or minor nature transmitted in the less formal mode of an executive agreement. Under such a standard, a relatively high degree of formality may be desired here.

g. *Proposed duration, need for prompt conclusion, and desirability of concluding a routine or short-term agreement.* It appears that Agreement G is proposed to have indefinite duration. The Agreement would not appear to be "routine"; however, the policy judgments inherent in the other two criteria of paragraph g. preclude an evaluation by this Office.

h. *General international practice.* Because of the time limitations we have been unable to survey general international practice with respect to similar agreements.

Conclusion. It is the opinion of this Office that the "Circular 175" criteria which we are able to apply suggests that Agreement G may be properly considered either a treaty or an executive agreement.

(d) *Conclusion Regarding Agreement G.* Agreement G, given its broadest reasonable construction, relates to a subject matter which may be one of exceptional national importance; constitutes a commitment within the meaning of the National Commitments Resolution; and may be considered either as a treaty or an executive agreement under the "Circular 175" criteria employed by the Department of State. Accordingly, it is the conclusion of this Office that the United States Constitution may require the advice and consent of the Senate.

(4) Agreement H—Assurances from United States Government to Egypt

(a) *Importance of Subject Matter.* Under the broadest reasonable construction, it appears that the United States is committed to the provision of economic assistance to Egypt. Moreover, the language "possible remedial action by the United States" could conceivably be construed, as could the similar language in Agreement E, as including a military commitment.

Assistance to Syria could be implied in ¶1 of Agreement H if the "channel" of economic assistance is contemplated in the event of the failure of the diplomatic channel. In addition, it is clear that technical assistance is promised for the Egyptian Early Warning System under paragraph 3. Agreement H may thus be one of exceptional national importance, but because of the subjective nature of this test whether it should be regarded as a treaty is not clear.

(b) *National Commitments Resolution.* Under the broadest reasonable interpretation, Agreement H clearly constitutes a "promise to assist" Egypt "by the use of . . . financial resources of the United States", possibly not "immediately" but clearly "upon the happening of certain events", namely, congressional authorization and appropriation. Inasmuch as Agreement H is not expressed as a "treaty, statute, or concurrent resolution", no commitment of the United States under the National Commitments Resolution has resulted from Agreement H.

(c) *"Circular 175" Criteria.* The application of "Circular 175" criteria will assume that Agreement H will also be given its broadest reasonable construction by each party thereto.

a. *Commitments and risks.* Agreement H clearly involves commitments affecting the Nation as a whole. Whether risks are also involved by virtue of United States technical assistance for the Egyptian Early Warning System is unclear.

b. *Effect on State laws.* As far as we can determine, no provision of Agreement H is intended to affect any State laws.

c. *Need for subsequent legislation.* The "policy of assisting Egypt in its economic development" clearly is dependent upon sufficient congressional authorizations. The final sentence refers specifically to "congressional authorization and appropriation."

d. *Past practice regarding similar agreements.* Agreements for the provision of economic assistance have seldom taken the form of treaties. However, depending on what "technical assistance", as used in paragraph 3, includes, a treaty may be appropriate.

e. *Preference of the Congress.* As indicated above, there is little question that the commitments undertaken in Agreement H constitute a commitment within the meaning of clause 1 of the National Commitments Resolution. We would thus conclude that the Senate has expressed its preference that the commitments made by an agreement of this particular type be embodied in a treaty, statute, or concurrent resolution specifically providing for such commitments, rather than in an executive agreement.

f. *Degree of formality desired.* Again, this Office is unable to determine what degree of formality was desired by the executive branch for Agreement H. From the standpoint of the Congress, however, the degree of formality desired may be viewed as a function of the degree of importance attached to the subject matter, with matters of prime importance transmitted as treaties and matters of a routine or minor nature transmitted in the less formal mode of an executive agreement. Under such a standard, depending on what "technical assistance" includes, a relatively high degree of formality may be desirable.

g. *Proposed duration, need for prompt conclusion, and desirability of concluding a routine or short-term agreement.* It appears that Agreement H is proposed to have indefinite duration. The policy judgments inherent in the other two criteria of paragraph 4 preclude an evaluation by this Office.

h. *General international practice.* Because of the time limitations we have been unable to survey general international practice with respect to similar agreements.

Conclusion. It is the conclusion of this Office that the "Circular 175" criteria which we can apply suggest that Agreement H could be considered either a treaty or an executive agreement.

(d) *Conclusion Regarding Agreement H.* Agreement H, given its broadest reasonable construction, relates to a matter which may be one of exceptional national importance; constitutes a commitment within the meaning of the National Commitments Resolution; and may be considered either as a treaty or as an executive agreement under the "Circular 175" criteria employed by the Department of State. Accordingly, it is the conclusion of this Office that the United States Constitution may require the advice and consent of the Senate.

II. *Assuming that Congress does not take any action of approval or disapproval concerning the secret agreements, what will be their status in domestic and international law?*

(A) Domestic Law

In answering this question with respect to domestic law, it is necessary to examine (1) relevant principles of constitutional law; and (2) the application of those principles to the agreements in question.

(1) *Relevant principles of constitutional law.*

In contrast to the unsettled state of constitutional law regarding the distinction between treaties and executive agreements, constitutional law is clear-cut and well-established regarding the status of an agreement which is beyond the President's sole power to make and which has not been given the advice and consent of the Senate. Such an agreement is without force and effect under domestic law. A contrary rule would render the advice and consent requirement of article II, section 2, clause 2 a nullity.

(2) *Application to the Agreements.*

(a) *Agreement E.* If, as we have concluded, it was beyond the authority of the President to enter into Agreement E without the advice and consent of the Senate, then in the absence of such advice and consent Agreement E is without force and effect under domestic United States law.

(b) *Agreement F.* If, as we have concluded, the President had the authority to enter into Agreement F on his own, that Agreement is of full force and effect under domestic United States law without the advice and consent of the Senate.

(c) *Agreement G.* If, as we have concluded, it may have been beyond the authority of the President to enter into Agreement G without the advice and consent of the Senate, then such Agreement may be without force and effect under domestic United States law.

(d) *Agreement H.* If, as we have concluded, it may have been beyond the authority of the President to enter into Agreement H without the advice and consent of the Senate, then such Agreement may be without force and effect under domestic United States law.

(B) International Law

In answering question II with respect to international law, it is necessary to examine (1) relevant principles of international law; and (2) the application of those principles to the Agreements in question.

(1) *Relevant principles of international law.*

Unlike domestic constitutional or statutory law, international law provides no text for use as a point of departure. Rather, its principles must be gleaned from various

sources, including international conventions, international custom, judicial decisions and teachings of highly qualified publicists, and general principles of law recognized by civilized nations.

The question of whether an agreement which is *ultra vires* under the constitutional law of a nation is binding upon that nation under international law has been answered in similar fashion by a variety of authorities who have reviewed the sources:

(a) The Harvard Research in International Law reached the following conclusion:

"A State is not bound by a treaty made on its behalf by an organ or authority not competent under its law to conclude the treaty; however, a State may be responsible for an injury resulting to another State from reasonable reliance by the latter upon a representation that such organ or authority was competent to conclude the treaty.

* * * * *

"In the United States, where the advice and consent of two-thirds of the members of the Senate present is required by the constitution before the President can make certain treaties, a treaty of that type, if concluded by the President without the advice and consent of the Senate or with the advice and consent of less than two-thirds of the senators present would be one concluded by an incompetent organ or authority. In short, an organ to be competent must be the whole organ or such part of it, where it is a collective organ, as the constitution or law of the State on behalf of which it acts, requires." 29 Am. J. Intl. ? Supp. 992 (1935).

(b) The United Nations International Law Commission formulated existing law as follows:

"Capacity of agents—Constitutional limitation upon the treaty-making power

"1. A treaty is voidable, at the option of the party concerned, if it has been entered in disregard of the limitations of its constitutional law and practice.

"2. A contracting party may be deemed, according to the circumstances of the case, to have waived its right to assert the invalidity of a treaty concluded in disregard of constitutional limitations if for a prolonged period it has failed to invoke the invalidity of the treaty or if it has acted upon or obtained an advantage from it.

"3. In cases in which a treaty is held to be invalid on account of disregard of the constitutional limitations imposed by the law or practice of a contracting party that party is responsible for any resulting damage to the other contracting party which cannot properly be held to have been affected with knowledge of the constitutional limitation in question.

"4. A party cannot invoke the invalidity of a treaty on the ground that it has been entered into in disregard of the constitutional limitations of the other contracting party.

"5. A party asserting the invalidity of a treaty on account of any failure to comply with constitutional limitations is bound, in case of disagreement, to submit the substance of the dispute or the question of damage to the International Court of Justice or to any other international tribunal agreed upon by the parties." II *Yearbook of the International Law Commission*, 1953 at 141.

(c) The Vienna Convention on the Law of Treaties provides as follows:

"Article 45

"Loss of a right to invoke a ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty

"A State may no longer invoke a ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty under articles 46 to 50 or articles 60 and 62 if, after becoming aware of the facts:

"(a) it shall have expressly agreed that the treaty is valid or remains in force or continues in operation, as the case may be; or

"(b) it must by reason of its conduct be considered as having acquiesced in the validity of the treaty or in its maintenance in force or in operation, as the case may be.

"Article 46

"Provisions of internal law regarding competence to conclude treaties

"1. A State may not invoke the fact that its consent to be bound by a treaty has been expressed in violation of a provision of its internal law regarding competence to conclude treaties as invalidating its consent unless that violation was manifest and concerned a rule of its internal law of fundamental importance.

"2. A violation is manifest if it would be objectively evident to any State conducting itself in the matter in accordance with normal practice and in good faith." U.N. Conference on the Law of Treaties, Doc. A/Conf. 39/27, May 23, 1969.

The Senate's consent has been cited as an example of a fundamental requirement. A. McNair, *The Law of Treaties* 63 (1961).

(d) Professor Lewis Henkin concludes as follows:

"It is now accepted that a treaty made in violation of a nation's constitution is nevertheless binding upon it unless the violation is "fundamental" and the other party knew or *had reason to know* the lack of authority to make it." Henkin, *Foreign Affairs and the Constitution* (1973) at 137 (emphasis added).

(e) McNair settles upon a similar test:

"[I]n concluding a treaty if one party produces an instrument 'complete and regular on the face of it' (to borrow an expression from another department of law) though in fact constitutionally defective, the other party, if it is ignorant and *reasonably ignorant* of the defect, is entitled to assume that the instrument is in order and to hold the former to the obligations of the treaty. If that view is correct then the repudiation of such a treaty constitutes an international wrong." Bishop, *International Law, Cases and Materials* (2d Ed., 1962) at 107 (emphasis added). *See also*, Whiteman *Digest of International Law*, § 26 at 260–261.

Conclusion.—We conclude, on the basis of these authorities, that under international law—

(1) a State may be bound, under international law, by an agreement made in violation of its constitutional process;

(2) a State is not bound if (A) such violation is fundamental; and (B) the other party to such agreement should reasonably have known of the constitutional defect;

(3) such State is bound, however, if its subsequent conduct indicates acquiescence in the validity of the agreement.

(2) *Application of international law to agreements.*

It is the opinion of this Office that entering into an agreement beyond the President's constitutional authority, without the advice and consent of the Senate, would constitute a "fundamental" violation of the United States Constitution. We would apply this principle to each Agreement as follows:

(a) *Agreement E.* If, as we have concluded, Agreement E is beyond the authority of the President to make without the advice and consent of the Senate, such Agreement is nonetheless binding on the United States under international law unless Israel should reasonably have known of the constitutional defect. Whether Israel may reasonably be held to such knowledge may be determined from a variety of sources, including legal, political and diplomatic ones.

(i) *Legal.* Foreign nations entering into international agreements with the United States may fairly be regarded to be on notice with respect to essential provisions of United States law and major expressions of relevant congressional opinion. Such provisions would appear to be embodied in the War Powers Resolution and in the National Commitment Resolution.

The War Powers Resolution. Section 8(a) of the War Powers Resolution prohibits the inference of authority to introduce the armed forces into hostilities, from any treaty unless such treaty is implemented by legislation specifically authorizing such introduction. Although the provision applies on its face only to treaties, it would seem unreasonable to conclude that the Congress intended to allow the inference of such authority to be drawn from an executive agreement.

The National Commitments Resolution provides as follows:

"Resolution

"Whereas accurate definition of the term "national commitment" in recent years has become obscured: Now, therefore, be it

"*Resolved*, That (1) a national commitment for the purpose of this resolution means the use of the Armed Forces of the United States on foreign territory, or a promise to assist a foreign country, government, or people by the use of the Armed Forces or financial resources of the United States, either immediately or upon the happening of certain events, and (2) it is the sense of the Senate that a national commitment by the United States results only from affirmative action taken by the executive and legislative branches of the United States Government by means of a treaty, statute, or concurent resolution of both Houses of Congress specifically providing for such commitment." Senate Resolution 85, 91st Congress, Report No. 91–129, agreed to June 25, 1969.

A leading constitutional scholar has observed that the National Commitment Resolution "was obviously intended . . . as a reminder to foreign governments that the Senate for its part reserves the right not to implement Presidential commitments, and it may effectively serve that end." L. Henkin, *Foreign Affairs and the Constitution* (1973) at 183.

(ii) *Political.* Less easy to identify but nonetheless pertinent are political indicia. These appear to suggest a desire by the Congress to play a more significant role in the conduct of the Nation's foreign relations and to reclaim power that has been exercised by the executive. In this climate an international agreement might reasonably be expected to receive greater congressional attention than it might have several years ago (see, e.g., the "Case Act", 1 U.S.C. 112a; 86 Stat. 619, requiring the transmittal to Congress of all executive agreements).

(iii) *Diplomatic.* This Office is, of course, not privy to information communicated to Israel through diplomatic channels, and cannot determine whether Israel received actual notice of the advice and consent requirement. Regardless of the nature of such communication, however, basic constitutional precepts cannot have been altered.

Conclusions regarding Agreement E. It would be unfair to require a State to make fine distinction with respect to the domestic law of another State. In this instance, however, the violation of the United States Constitution is fundamental in nature. Moreover, legal and political warning lights have been readily visible.

Accordingly, it is the conclusion of this Office that Israel should reasonably have known of the constitutional defectiveness of Agreement E, and that the United States is therefore not bound under international law.

(b) *Agreement "F".* If, as we have concluded, Agreement F is a valid executive agreement, it is of full force and effect under international law.

(c) *Agreement "G".* Because we are uncertain as to the validity of Agreement G under

domestic constitutional law, it would probably be unfair to conclude that Israel should reasonably have known of any such potential constitutional defect. We therefore conclude that Agreement G is probably of force and effect under international law.

(d) *Agreement "H".* Because we are uncertain as to the validity of Agreement H under domestic constitutional law, it would probably be unfair to conclude that Egypt should reasonably have known of any such potential constitutional defect. We therefore conclude that Agreement H is probably of force and effect under international law.

III. Could S. Con. Res. 64, if passed by Congress without amendment, be interpreted as constituting congressional approval of the entire package of Middle East agreements in stating that "the President is accordingly encouraged to take such action as may be necessary to fulfill their purposes"?

S. Con. Res. 64 provides that "the President is accordingly encouraged to take such action as may be necessary to fulfill their purposes," with "their" referring to "identical proposals" transmitted by the President on September 1, 1975, to the Government of the Arab Republic of Egypt and to the Government of Israel. Under the broadest reasonable construction, the "purposes" of such identical proposals might be viewed as being the establishment of "a just and lasting peace in the Middle East" and the reduction of "the threat to the peace and to the security and economy of the United States" (2d "whereas clause"). Agreements E–H, discussed in this memorandum above, might also reasonably be construed as directed at those same purposes. Accordingly, it is our conclusion that the adoption by the Congress of S. Con. Res. 64, in the form in which it was introduced, could be construed as constituting approval of Agreements E–H.

Moreover, even if the adoption of S. Con. Res. 64 were not regarded as approval under domestic constitutional law, under international law such adoption could conceivably be construed as subsequent conduct indicating acquiescence in the validity of Agreement E, which we have concluded is otherwise invalid.

Respectfully submitted,

MICHAEL J. GLENNON,
Assistant Counsel.

SEPTEMBER 24, 1975.

APPENDIX 1. MEMORANDUM

SUBJECT: EQUIVALENCE OF TREATIES AND EXECUTIVE AGREEMENTS UNDER INTERNATIONAL LAW

You have requested clarification with respect to several points made in the memorandum of law of September 24, 1975 of this Office regarding the standing of treaties and executive agreements under international law.

A. Treaties and executive agreements are of equal force and effect under international law.[1]

B. Agreement E, an executive agreement, is of no force and effect under international law.

Question 1. Are these two propositions inconsistent?

Answer. No. A *valid* treaty and a *valid* executive agreement are of equal force and effect under international law. Each is equally binding. An *invalid* treaty or an *invalid* executive agreement is of no force or effect under international law. Neither is binding. Our memorandum of September 24, 1975 concluded that, because entry by himself into Agreement E was (or will be) an *ultra vires* act on the part of the President and should reasonably be known to be such by Israel, Agreement E represents an *invalid* executive agreement. It can become binding under international law only if accorded the advice and consent of the Senate.

Question 2. Then what difference does it make whether Agreement E, now simply initialed, is on some future date signed and therefore purportedly entered into?

Answer. Legally, none. The Agreement is and will be an *invalid* executive agreement. The unwanted impact is entirely diplomatic and political. Invalid international agreements can lead to misunderstandings, recriminations, and generally undesirable international and domestic repercussions.

A recent example is illustrative. Former President Nixon reportedly promised President Thieu that the United States would "respond with full force" in the event of certain violations of the Paris Agreement by North Vietnam. Letter of January 5, 1973 from President Nixon to President Thieu, *New York Times*, May 1, 1975, p. 16. President Nixon had earlier written that "You have my absolute assurance that if Hanoi fails to abide by the terms of [the Paris Agreement] it is my intention to take swift and severe retaliatory action." Letter of November 14, 1972 from President Nixon to President Thieu, *id.*

Was the United States in violation of international law as the result of its failure to comply with this executive agreement? The answer fairly clearly is no, for the reasons that (1) the agreement was beyond the constitutional authority of the President, acting alone, to make; (2) South Vietnam should reasonably have known of such defect; and (3) the Agreement was, as an invalid executive agreement; [2] without force and effect under international law.

Summary and Conclusion. It is the position of the Department of State that Agreement E is a *valid* executive agreement (which has, because it was initialed rather than signed, not yet entered into force). Letter of Monroe Leigh, Legal Adviser, Department of State, to Hon. Thomas E. Morgan, September 18, 1975. It was the conclusion of this Office in our memorandum of law of September 24 that Agreement E is an *invalid* executive agreement because the President lacks the constitutional power to make such Agreement by himself. However, if Agreement E is accorded the advice and consent of the Senate, that Agreement will, as a valid *treaty*, have full force and effect under international law—the same force and effect it would have had if it had been a *valid* executive agreement.

APPENDIX 2. MEMORANDUM OF LAW

STANDING OF TREATIES AND EXECUTIVE AGREEMENTS UNDER INTERNATIONAL LAW

It is undisputed that under international law a treaty and an executive agreement are of equal force and effect.

The Department of State has itself recognized that each is equally binding and obligatory. In a letter to Secretary of Defense Johnson on January 17, 1950, Under Secretary of State Webb stated as follows:

"In international law, . . . treaties and executive agreements both constitute equally binding obligations on the Nation. The binding effect of international law takes place as soon as the State has properly consented to the obligations and does not depend upon the form of the particular undertaking." MS. Department of State, file 811 F.06/1–1750, quoted in 14 Whiteman, *Digest of International Law*, § 22 at 212.

All available evidence indicates that the conclusion of the Department of State is beyond challenge.

The 1969 Vienna Convention on the law of treaties [3] defines the term "treaty" to include executive agreements and makes no distinction between the two:

"1. For the purposes of the present Convention:

"(a) 'Treaty' means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation;

* * * * *

"2. The provisions of paragraph 1 regarding the use of terms in the present Convention are without prejudice to the use of those terms or to the meanings which may be given to them in the internal law of any State." U.N. Conference on the Law of Treaties, Doc. A/CONF.39/27, May 23, 1969, Art. 2.

The International Law Commission commented on this definition of treaty as follows:

". . . the juridical differences, insofar as they really exist at all, between formal treaties and treaties in simplified form lie almost exclusively in the method of conclusion and entry into force. The law relating to such matters as validity, operation and effect, execution and enforcement, interpretation, and termination, applies to all classes of international agreements . . . the use of the term 'treaty' as a generic term embracing all kinds of international agreements in written form is accepted by the majority of jurists." *II Yearbook of the International Law Commission* 1966, pp. 188, 190.

The Harvard Research in International Law concluded as follows: "The distinction between so called 'executive agreements' and 'treaties' is purely a constitutional one and has no international significance. . . ." Harvard Research in International Law, Draft Convention on the Law of Treaties, Comment, 29 Am. J. Int'l L. Supp. (1935) 653, 697.

Conclusion. Accordingly, it is the opinion of this Office that the Department of State is undoubtedly correct in its view that "treaties and executive agreements both constitute equally binding obligations on the Nation".

Respectfully submitted,

MICHAEL J. GLENNON,
Assistant Counsel.

APPENDIX 3. MEMORANDUM OF LAW

SUBJECT: COMPARABILITY OF PARAGRAPH 10 OF AGREEMENT E WITH OTHER TREATIES

This Memorandum of Law is submitted in response to the request of your staff of October 3, 1975.

The point is made that unlike paragraph 10 [4] of Agreement E, which contains only a

---

[1] See attached memorandum of law.

[2] "Because these letters were international agreements they were required under the law to be transmitted to the Congress. They were not transmitted. In fact, the President continues to withhold the letters from us. They have been requested, first on April 10, 1975 and again on May 1, 1975, by the Chairman of the Foreign Relations Committee." Hon. Clifford Case, testimony before Subcommittee on Separation of Powers, Senate Judiciary Committee, May 13, 1975.

[3] The Convention is not in effect with respect to the United States, but it is strong evidence of the current state of inernational law and has been cited by the Department of State as such. See, eg., "United States says it is now free to breach Viet Nam pact", *New York Times*, January 15, 1975, in which it is reported that Department spokesmen cite the Vienna Convention regarding the effect of a material breach of an international agreement of the obligations of other parties.

[4] "In view of the long-standing United States commitment to the survival and security of Israel, the United States Government will view with particular gravity threats to Israel's security or sovereignty by a world power. In support of this objective, the United States Government will in the event of such threat consult promptly with the Government of Israel with respect to what support, diplomatic or otherwise, or

consultation requirement, each mutual defense treaty contains a requirement to *act*.

This is not so. At least four such treaties contain no action requirement. Article IV of the Mutual Defense Treaty Between the United States of America and the Republic of the Philippines, 3 UST 3947; TIAS 2529; 177 UNTS 133, provides as follows:

"Article IV

"Each Party recognizes that an armed attack in the Pacific Area on either of the Parties would be dangerous to its own peace and safety and declares that it would act to meet the common dangers in accordance with its constitutional processes.

"Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security."

Article IV of the Security Treaty Between Australia, New Zealand, and the United States of America, 3 UST 3420; TIAS 2493; 131 UNTS 83, provides as follows:

"Article IV

"Each Party recognizes that an armed attack in the Pacific Area on any of the Parties would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes.

"Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security."

Article IV of the "SEATO" Treaty, 6 UST 81; TIAS 3170, provides as follows:

Article IV

"1. Each Party recognizes that aggression by means of armed attack in the treaty area against any of the Parties or against any State or territory which the Parties by unanimous agreement may hereafter designate, would endanger its own peace and safety, and agrees that it will in that event act to meet the common danger in accordance with its constitutional processes. Measures taken under this paragraph shall be immediately reported to the Security Council of the United Nations."

* * * * *

Article III of the Mutual Defense Treaty Between the United States of America and the Republic of Korea, 5 UST 2368; TIAS 3097, provides as follows:

Article III

"Each Party recognizes that an armed attack in the Pacific area on either of the Parties in territories now under their respective administrative control, or hereafter recognized by one of the Parties as lawfully brought under the administrative control of the other, would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes."

These are not action requirements. In each case, the "requirement" to act is modified by the language *"in accordance with its constitutional processes."* This language makes the "requirement" non-mandatory and conditional upon approval in accordance with constitutional processes. In the case of the United States, this process presumably includes the possibility that Congress may decide against action.

A true action requirement is contained in article 5 of the North Atlantic Treaty, 66 Stat. 2241; TIAS 1964; 34 UNTS 243, which provides as follows:

"Article 5

"The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all; and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area.

"Any such armed attack and all measures taken as a result thereof shall immediately be reported to the Security Council. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security."

No such unconditional action requirement is contained in the four treaties discussed above, however. In this respect those treaties are therefore similar to paragraph 10 of Agreement E.

APPENDIX 4

DEPARTMENT OF STATE,
Washington, D.C., September 18, 1975.

Hon. THOMAS E. MORGAN,
Chairman, International Relations Committee, Washington, D.C.

DEAR MR. CHAIRMAN: During the hearings on September 11 before the Committee, Under Secretary Sisco was asked whether he regarded the two Memoranda of Agreement between the United States and Israel, which he supplied for the Committee's information on a confidential basis, were properly characterized as "executive agreements." He offered to provide an opinion from the Legal Adviser's Office. This letter is supplied as a result.

It is my opinion that both the two Memoranda of Agreement referred to above are properly described under United States constitutional practice as "executive agreements". As you know, these two documents were initialled in Israel on September 1st. It was understood on both sides that the Memoranda of Agreement would not come into force until signed by representatives of the two governments and that no such signing would take place until after Congress had acted on the Proposal for placing United States technicians in Sinai in connection with the Early Warning System.

It is clear that the Memoranda of Agreement when executed will become international agreements. It is also clear that since they are international agreements they must be reported to the Congress within 60 days after taking effect. At the present time both Memoranda are classified "secret"; it is anticipated that it will be necessary to maintain this classification indefinitely. Accordingly, we expect to transmit the two Memoranda after execution to the House International Relations Committee and the Senate Foreign Relations Committee under an injunction of secrecy as contemplated by the Case Act. (1 U.S.C.A. § 112b).

As you know, we are not asking the Congress for specific approval of these two Memoranda of Agreement. The only document on which specific Congressional approval is sought is the Proposal relating to the placing of American technicians in Sinai. With respect to the two Memoranda of Agreement, the undertakings by the United States fall in the category either of those which the President is already authorized to make under existing legislation or under the traditional powers of the President to make statements of political intention in the conduct of foreign affairs.

Moreover, implementation of any United States undertaking requiring Congressional appropriation or authorization is expressly conditioned upon affirmative Congressional action.

Respectfully submitted,

MONROE LEIGH,
Legal Adviser.

Mr. CLARK. This is a memorandum that was made available to me and to the committee by the U.S. Senate legislative counsel which addresses itself to these interpretations. I quote from the memorandum:

One reason for the law's dislike for ambiguity is that it makes possible broad but still reasonable interpretations, thereby engendering unpredictable results. Thus in assessing the nature, extent, and desirability of the commitments made in Agreement E by the United States, the Committee may wish to view the agreement in terms of the broadest reasonable construction to which it could be subjected either by Israel or by a United States President. So viewed, the agreement may be construed to provide as follows:

1. The United States will introduce its armed forces into hostilities for the purpose of,——

It lists several points, one of which is precisely the one which the Senator from Colorado made.

(c) maintaining Israel's right to free and unimpeded passage through the Straits of Bab-el-Mandeb and the Straits of Gibraltar;

Certainly it is the judgment of the U.S. Senate's legislative counsel that this section, referred to as paragraph 14, clearly can be so interpreted either by this President or Secretary of State, or by the Prime Minister of Israel, or by their successors, because, after all, there is no time limitation on this agreement.

So I ask the Senator from Colorado if he does not agree that this is a broad but reasonable interpretation?

Mr. HASKELL. In response to the Senator from Iowa, there is no question in my mind that it is. I think it underscores the desirability of adopting the next amendment to be offered. It really will carry out what the floor managers of the resolution said in the Chamber today: we are really looking just at today and we have "freedom of flight." The next amendment will reserve to the United States of America "freedom of flight." We should not be talking on this point in relation to this amendment, but the Senator from Florida raised the question.

The PRESIDING OFFICER. Who yields time?

Mr. CLARK. Mr. President, I would like to summarize in 2 minutes the purpose of the amendment which I offered on behalf of Senator STEVENSON, Senator HASKELL, Senator BIDEN, and myself.

The debate really has covered the points very thoroughly, and it comes down to this question.

As one looks at what we are doing here chronologically, we realize that, if and when we pass the joint resolution to commit 200 technicians to the Middle East, that will then trigger the implementation of the other memoranda of agreement. We have had testimony to that effect from the Secretary of State read here, and we have the legal adviser's opinion on that. It will become effective.

---

assistance it can lend to Israel in accordance with its constitutional practices."

The question then is, What does it mean? What becomes effective?

That precisely was why we asked the Secretary of State to provide us with a legal memorandum to tell us what in the judgment of the administration would be legally binding on this country. He did so.

We cannot discuss it here in open session because it is secret.

The purpose of this amendment is simple: It is to make that memorandum public, to say that we are not going to vote, and commit the people of the United States to binding commitments—as interpreted by the administration—without their being made public.

I fail to understand how stating the President's position——

Mr. PASTORE. Mr. President, will the Senator yield on that point?

Mr. CLARK. I yield.

Mr. PASTORE. Have we had an explanation of why it is secret? I mean here I am. I have to vote on this.

Mr. CLARK. We had none of which I am aware.

Mr. PASTORE. Does the Senator mean that the administration was prodded by the committee to reveal what is in the documents and they have not been told?

Mr. CLARK. I asked the Secretary of State in public testimony 3 or 4 days ago how he planned to fulfill his commitment to the American people to let them know all of the commitments that are being made if he did not propose to make this public. He said he knew of no other way unless he could make a summary of it. He has not made a summary of it.

Mr. PASTORE. I realize that in dealing with another government there are many sensitive areas. The chances are one cannot tell universally for the simple reason that he would not only tell it to his friends but he would tell it to his adversaries. But we are here to vote.

Mr. CLARK. That is right.

Mr. PASTORE. We can go into executive session. If he cannot tell the Congress of the United States that has to vote on this what is in these agreements, then are we not voting in the dark?

Mr. CLARK. No. I do not want to be misunderstood.

The Congress of the United States, the members of the Committee on Foreign Relations have that document, and that is available to all Senators. The point of the amendment is it ought to be made public.

Mr. PASTORE. What purpose will it serve at this time giving it universal exposure?

Mr. CLARK. That is precisely my summary. That is what I intended to turn to.

Mr. PASTORE. All right. Let me hear it.

Mr. CLARK. I fail to understand why how stating the President's position will undermine, undo, or destroy the agreement, how publishing this memorandum could do, as Senator JAVITS has suggested.

If this agreement in the Middle East is so fragile that we cannot know what the President believes to be the legally binding commitments of this country, then it is indeed on very unsound ground.

I do not believe it is. I think the people of this country and the people of the world, if they knew what the President's view as to which of these commitments are legally binding, certainly would not destroy that agreement.

The reasons for this amendment then briefly, Mr. President, are clear. We believe that the American people have the right to know what they are being committed to as seen by the President or this administration. That is all the amendment does.

Our opponents do not think that they should have that right or that privilege. That is what this vote is all about.

We have just passed through a very difficult period in our history: the Vietnam war and the secret war in Cambodia.

Before our Committee on Foreign Relations in the first day of hearings we agreed to take a long look at American policy. We had 8 or 10 of the most distinguished pollsters in this country. They disagreed on a number of things, but one thing they agreed upon was the American people want to know what they are being committed to. They do not like secrecy. They do not want us committing ourselves in domestic or foreign affairs without being privy to it, without being a part of it, without knowing what is in it.

If there is one thing that I think any of us in this body knows it is that the American people have had enough of that; that the American people are sick of being committed in foreign affairs without even being told to what they are being committed.

That is why on last Friday we moved, in spite of the Secretary of State, to make these other documents public. We believe they had the right to do it, that they had the right to know.

This amendment does one thing. It says, "All right, now you also have the right to know what the President of the United States is committing us to in these agreements." I do not think that is asking too much.

Mr. WEICKER. Mr. President, will the Senator yield?

Mr. CLARK. I yield to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the amendment of the distinguished Senator from Iowa.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. Mr. President, I reserve the remainder of my time.

Mr. HUMPHREY. Mr. President, so that there may be no doubt as to what the United States of America is committed to, just what the Secretary of State negotiated, just what the President of the United States feels we are obligated to, those matters to which he feels both a legal and a moral obligation, and those matters to which he feels a moral and a political obligation, I ask unanimous consent to have the following documents printed in the RECORD: The documents that appear on page 249 of the committee hearings, noted as "Appendix," the first one being a memorandum of agreement between the governments of Israel and the United States, dated September 1, 1975, giving United States-Israeli assurances, to be signed by the Deputy Prime Minister and the Minister of Foreign Affairs of Israel, Mr. Allon, and the Secretary of State for the Government of the United States, Henry Kissinger; the memorandum of agreement between the Governments of Israel and the United States, entitled "The Geneva Peace Conference," to be signed by the same two distinguished public servants, Mr. Allon and Mr. Kissinger; the document labeled "Assurances From USG to Israel," on pages 252 to 253; and the document labeled "Assurances From USG to Egypt," on page 253.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPENDIX, SEPTEMBER 1, 1975; MEMORANDUM OF AGREEMENT BETWEEN THE GOVERNMENTS OF ISRAEL AND THE UNITED STATES

The United States recognizes that the Egypt-Israel Agreement initialed on September 1, 1975, (hereinafter referred to as the Agreement), entailing the withdrawal from vital areas in Sinai, constitutes an act of great significance on Israel's part in the pursuit of final peace. That Agreement has full United States support.

UNITED STATES-ISRAELI ASSURANCES

1. The United States Government will make every effort to be fully responsive, within the limits of its resources and Congressional authorization and appropriation, on an on-going and long-term basis to Israel's military equipment and other defense requirements, to its energy requirements and to its economic needs. The needs specified in paragraphs 2, 3 and 4 below shall be deemed eligible for inclusion within the annual total to be requested in FY76 and later fiscal years.

2. Israel's long-term military supply needs from the United States shall be the subject of periodic consultations between representatives of the United States and Israeli defense establishments, with agreement reached on specific items to be included in a separate United States-Israeli memorandum. To this end, a joint study by military experts will be undertaken within 3 weeks. In conducting this study, which will include Israel's 1976 needs, the United States will view Israel's requests sympathetically, including its request for advanced and sophisticated weapons.

3. Israel will make its own independent arrangements for oil supply to meet its requirements through normal procedures. In the event Israel is unable to secure its needs in this way, the United States Government, upon notification of this fact by the Government of Israel, will act as follows for five years, at the end of which period either side can terminate this arrangement on one-year's notice.

(a) If the oil Israel needs to meet all its normal requirements for domestic consumption is unavailable for purchase in circumstances where no quantitative restrictions exist on the ability of the United States to procure oil to meet its normal requirements, for purchase by Israel to meet all of the aforementioned normal requirements of Israel. If Israel is unable to secure the necessary means to transport such oil to Israel, the United States Government will make every effort to help Israel secure the necessary means of transport.

(b) If the oil Israel needs to meet all of its normal requirements for domestic consump-

tion is unavailable for purchase in circumstances where quantitative restrictions through embargo or otherwise also prevent the United States from procuring oil to meet its normal requirements, the United States Government will promptly make oil available for purchase by Israel in accordance with the International Energy Agency conservation and allocation formula as applied by the United States Government, in order to meet Israel's essential requirements. If Israel is unable to secure the necessary means to transport such oil to Israel, the United States Government will make every effort to help Israel secure the necessary means of transport.

Israeli and United States experts will meet annually or more frequently at the request of either party, to review Israel's continuing oil requirement.

4. In order to help Israel meet its energy needs, and as part of the overall annual figure in paragraph 1 above, the United States agrees.

(a) In determining the overall annual figure which will be requested from Congress, the United States Government will give special attention to Israel's oil import requirements and, for a period as determined by Article 3 above, will take into account in calculating that figure Israel's additional expenditures for the import of oil to replace that which would have ordinarily come from Abu Rodeis and Ras Sudar (4.5 million tons in 1975).

(b) To ask Congress to make available funds, the amount to be determined by mutual agreement, to the Government of Israel necessary for a project for the construction and stocking of the oil reserves to be stored in Israel, bringing storage reserve capacity and reserve stocks now standing at approximately six months, up to one-year's need at the time of the completion of the project. The project will be implemented within four years. The construction, operation and financing and other relevant questions of the project will be the subject of early and detailed talks between the two Governments.

5. The United States Government will not expect Israel to begin to implement the Agreement before Egypt fulfills its undertaking under the January 1974 Disengagement Agreement to permit passage of all Israeli cargoes to and from Israeli ports through the Suez Canal.

6. The United States Government agrees with Israel that the next agreement with Egypt should be a final peace agreement.

7. In case of an Egyptian violation of any of the provisions of the Agrement, the United States Government is prepared to consult with Israel as to the significance of the violation and possible remedial action by the United States Government.

8. The United States Government will vote against any Security Council resolution which in its judgment affects or alters adversely the Agreement.

9. The United States Government will not join in and will seek to prevent efforts by others to bring about consideration of proposals which it and Israel agree are detrimental to the interests of Israel.

10. In view of the long-standing United States commitment to the survival and security of Israel, the United States Government will view with particular gravity threats to Israel's security or sovereignty by a world power. In support of this objective, the United States Government will in the event of such threat consult promptly with the Government of Israel with respect to what support, diplomatic or otherwise, or assistance it can lend to Israel in accordance with its constitutional practices.

11. The United States Government and the Government of Israel will, at the earliest possible time, and if possible, within two months after the signature of this document, conclude the contingency plan for a military supply operation to Israel in an emergency situation.

12. It is the United States Government's position that Egyptian commitments under the Egypt-Israel Agreement, its implementation, validity and duration are not conditional upon any act or developments between the other Arab states and Israel. The United States Government regards the Agreement as standing on its own.

13. The United States Government shares the Israel position that under existing political circumstances negotiations with Jordan will be directed toward an overall peace settlement.

14. In accordance with the principle of freedom of navigation on the high seas and free and unimpeded passage through and over straits connecting international waters, the United States Government regards the Straits of Bab-El-Mandeb and the Strait of Gibraltar as international waterways. It will support Israel's right to free and unimpeded passage through such straits. Similarly, the United States Government recognizes Israel's right to freedom of flights over the Red Sea and such straits and will support diplomatically the exercise of that right.

15. In the event that the United Nations Emergency Force or any other United Nations organ is withdrawn without the prior agreement of both Parties to the Egypt-Israel Agreement and the United States before this Agreement is superseded by another agreement, it is the United States view that the Agreement shall remain binding in all its parts.

16. The United States and Israel agree that signature of the Protocol of the Egypt-Israel Agreement and its full entry into effect shall not take place before approval by the United States Congress of the United States role in connection with the surveillance and observation functions described in the Agreement and its Annex. The United States has informed the Government of Israel that it has obtained the Government of Egypt agreement to the above.

YIGAL ALLON,
Deputy Prime Minister and Minister of Foreign Affairs (For the Government of Israel).

HENRY A. KISSINGER,
Secretary of State (For the Government of the United States).

MEMORANDUM OF AGREEMENT BETWEEN THE GOVERNMENTS OF ISRAEL AND THE UNITED STATES

THE GENEVA PEACE CONFERENCE

1. The Geneva Peace Conference will be reconvened at a time coordinated between the United States and Israel.

2. The United States will continue to adhere to its present policy with respect to the Palestine Liberation Organization, whereby it will not recognize or negotiate with the Palestine Liberation Organization so long as the Palestine Liberation Organization does not recognize Israel's right to exist and does not accept Security Council Resolutions 242 and 338. The United States Government will consult fully and seek to concert its position and strategy at the Geneva Peace Conference on this issue with the Government of Israel. Similarly, the United States will consult fully and seek to concert its position and strategy with Israel with regard to the participation of any other additional states. It is understood that the participation at a subsequent phase of the Conference of any possible additional state, group or organization will require the agreement of all the initial participants.

3. The United States will make every effort to ensure at the Conference that all the substantive negotiations will be on a bilateral basis.

4. The United States will oppose and, if necessary, vote against any initiative in the Security Council to alter adversely the terms of reference of the Geneva Peace Conference or to change Resolutions 242 and 338 in ways which are incompatible with their original purpose.

5. The United States will seek to ensure that the role of the cosponsors will be consistent with what was agreed in the Memorandum of Understanding between the United States Government and the Government of Israel of December 20, 1973.

6. The United States and Israel will concert action to assure that the Conference will be conducted in a manner consonant with the objectives of this document and with the declared purpose of the Conference, namely the advancement of a negotiated peace between Israel and each one of its neighbors.

YIGAL ALLON,
Deputy Prime Minister and Minister of Foreign Affairs (For the Government of Israel).

HENRY A. KISSINGER,
Secretary of State (For the Government of the United States).

ASSURANCES FROM USG TO ISRAEL

On the question of military and economic assistance to Israel, the following conveyed by the U.S. to Israel augments what the Memorandum of Agreement states.

The United States is resolved to continue to maintain Israel's defensive strength through the supply of advanced types of equipment, such as the F-16 aircraft. The United States Government agrees to an early meeting to undertake a joint study of high technology and sophisticated items, including the Pershing ground-to-ground missiles with conventional warheads, with the view to giving a positive response. The U.S. Administration will submit annually for approval by the U.S. Congress a request for military and economic assistance in order to help meet Israel's economic and military needs.

ASSURANCES FROM USG TO EGYPT

1. The United States intends to make a serious effort to help bring about further negotiations between Syria and Israel, in the first instance through diplomatic channels.

2. In the event of an Israeli violation of the Agreement, the United States is prepared to consult with Egypt as to the significance of the violation and possible remedial action by the United States.

3. The United States will provide technical assistance to Egypt for the Egyptian Early Warning Station.

4. The U.S. reaffirms its policy of assisting Egypt in its economic development, the specific amount to be subject to Congressional authorization and appropriation.

Mr. HUMPHREY. Mr. President, the American people are to assume that those are the obligations, the assurances, the understandings, and the intentions that this Government will fulfill. That is what you are to assume. In other words, if you are against this bill, this is the worst case you can make. This is the worst that could happen to you.

It is not a secret. It is all here. The only question is whether or not you want a counsel in the State Department to tell you that he thinks that item No. 1 in the United States-Israeli assurance is more important than item No. 4.

I want the Senate to know that I consider them all important. I want the Senate to know that I consider them obligations, moral and political, of this Gov-

ernment. I want the Senate to know that I consider them assurances and understandings of this Government. I want the Senate to know that they were negotiated in the belief that they would help bring peace to the Middle East. I want the Senate to know that those agreements were entered into under conditions that prevail as of today, in the hope that those conditions will improve as of tomorrow; that if there is a breakup in the matter of the Middle East, where governments change, where policies of governments change, everybody in this body is sufficiently sensible to know that those commitments, assurances, understandings, and obligations will have to be reassessed in light of the new circumstances.

This is not child's play. This is a job for men and women of maturity. We know what we are doing. All that is there, Mr. and Mrs. America, and you do not need to have a lawyer come in and tell you what is there. It is all there, Mr. and Mrs. America, and you had better assume that every bit of it can happen. You should assume that every bit of that can take place. You should not downgrade it a bit.

I am simply saying, however, that Congress is not legally bound to it. I am simply saying that Congress is not bound to these words. I am saying that the Executive and the Secretary of State are bound by these words. I am saying that these assurances will help promote peace. I am not going to try to find out how many angels can dance on the head of a pin, when I know that there is a potential conflagration out there that could envelop us all.

Let us be clear: Senators should not vote for the 200 observers—and that is what the issue is—if they find that these assurances and these obligations which the President and the Secretary of State have entered into are so disturbing to them that they could not live with them. I do not want to encourage anybody to be fooled.

Having said that, let us assume, for the purpose of this argument, that they are all legally binding on the President and the Secretary of State. I think it is clear that the committee report states and the resolution states that there is no presumption of binding obligation on the Congress of the United States.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. ABOUREZK. I ask a question of the Senator from Minnesota. Is the administration bound by the oil assurances contained in part of these agreements?

Mr. HUMPHREY. That is correct.

Mr. ABOUREZK. To what extent, in the Senator's opinion, is the administration bound by them? Does that mean we assure oil to Israel? In the event one of the tankers that is carrying oil is attacked, does that mean that U.S. military forces will be used to protect that tanker?

Mr. HUMPHREY. It does not say that.

Mr. ABOUREZK. No, but does it mean that?

Mr. HUMPHREY. I do not know. It does not say that; and since it does not say that, I do not think we should read into it.

The PRESIDING OFFICER. The time of the Senator from Minnesota has expired. The Senator from Iowa has 28 minutes.

Mr. CLARK. I yield 5 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota is recognized for 5 minutes.

Mr. ABOUREZK. I would like to ask the distinguished floor manager of the bill this question: Did anyone from the State Department or the administration indicate to the Committee on Foreign Relations during any of these proceedings what they believed their commitments to be so far as oil assurances were concerned?

Mr. HUMPHREY. The Secretary of State indicated to us that before that agreement was negotiated, they had sought an opinion from the Attorney General of the United States, who is the highest legal officer of the Government, as to the power of the President to negotiate such an agreement under existing statutory law.

I ask my colleagues who are members of the committee. I particularly ask the attention of my lawyer over here, Senator JAVITS. I am simply saying that it is my understanding that the Secretary of State said specifically that the provision or the agreement on oil was negotiated as included in the memorandum of agreement, the Government had sought the opinion of the Attorney General as to whether or not it was within the power of the President of the United States, through the Secretary of State, under existing statutory law, to negotiate such an agreement, and the Attorney General ruled that it was. Is that correct?

Mr. JAVITS. That is correct, but I should like to add to that the citation given in that regard, which the Senate should have before it.

The operative law is contained in section 12(d) of the Outer Continental Shelf Lands Act, coupled with section 607 of the Foreign Assistance Act of 1961, authorizing the sale of commodities and services to friendly countries on the advance of funds by reimbursement basis.

Therefore, the money side of it would depend on the nature of the transaction, as to whether the President would have to seek additional legislative authority. But he had enough legislative authority to say that the oil would be delivered without dealing with the money question at that point.

Mr. CASE. I have 3 minutes, I understand, Mr. President, that come from Mr. HASKELL.

The PRESIDING OFFICER. The Senator has 3 minutes and is recognized for that period of time.

Mr. CASE. I just want to indicate that I do not necessarily agree with the opinion of the Attorney General as to the President's authority. I question that he has authority to make any such commitment, even though he may have authority to carry out ministerial acts in connection with the Outer Continental Shelf legislation.

Mr. JAVITS. I say to my colleague, if he will yield to me, that I see nothing in this that deprives the Senator or myself or anybody else of challenging that authority.

Mr. ABOUREZK. What I should like to determine is, did the administration or the Secretary of State, whoever talked to the Senator about it after they had gotten this opinion from the Attorney General saying that they could bind the administration—perhaps not Congress—did they indicate at all that there was a chance they could use U.S. military personnel to protect oil shipments to Israel? Was there any discussion of that at all during the deliberations?

Mr. HUMPHREY. I cannot say, because I was not there every minute of every hour of the hearings. I am asking the staff director to look that up.

Mr. JAVITS. Mr. President, I can answer that.

The PRESIDING OFFICER. The time of the Senator from South Dakota has expired.

Mr. ABOUREZK. The Chair was not allowing all that discussion to go on my time; was he?

The PRESIDING OFFICER. The Chair was not. The Senator from South Dakota has had his 5 minutes, in addition to the other 3.

Mr. ABOUREZK. I asked one question.

The PRESIDING OFFICER. The Senator got a long answer.

Mr. CASE. The Senator knew what he was getting into.

Mr. ABOUREZK. Yes, I did.

Mr. HUMPHREY. Has all time expired?

Mr. ABOUREZK. I have 5 more minutes coming to me.

Mr. CLARK. I yield 5 minutes.

Mr. ABOUREZK. May I ask the Senator from New York what took place during the committee's deliberation on this bill?

Mr. JAVITS. To my best recollection—I was there, so I can give my best recollection—is that the Secretary's rebuttal was that any military means would not be used to bring about delivery of oil. He said there would not.

Mr. ABOUREZK. There would not?

Mr. JAVITS. He said there would be no military means used. That is my best recollection, and I was there.

Mr. ABOUREZK. I thank the Senator.

Mr. President, I reserve the remainder of my time.

Mr. HUMPHREY. Mr. President, I move to lay the amendment of the Senator from Iowa, for himself and others, on the table.

The PRESIDING OFFICER. The Chair is advised that such a motion is not in order unless the Senator from Iowa yields back the remainder of his time.

Mr. CLARK. If no other Member of the Senate wishes to speak on this amendment, I am prepared to yield back my time.

Mr. HUMPHREY. If there is any time here, we are prepared to. I think we have exhausted this time.

The PRESIDING OFFICER. The Chair is advised there is no other time, so if the Senator from Iowa yields back his time, the motion would be in order.

Mr. CLARK. I yield back my time.

Mr. HUMPHREY. I thank my colleagues.

Mr. President, I move that the amendment of the Senator from Iowa be laid on the table.

Mr. CLARK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Minnesota. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I also announce that the Senator from Michigan (Mr. PHILIP A. HART) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Idaho (Mr. MCCLURE) is necessarily absent.

I further announce that, if present and voting, the Senator from Idaho (Mr. MCCLURE) would vote "nay."

The result was announced—yeas 59, nays 32, as follows:

[Rollcall Vote No. 439 Leg.]

YEAS—59

Allen	Goldwater	Pearson
Baker	Griffin	Pell
Bartlett	Hansen	Percy
Beall	Hruska	Randolph
Bellmon	Humphrey	Ribicoff
Bentsen	Jackson	Roth
Brock	Javits	Schweiker
Brooke	Johnston	Scott, Hugh
Buckley	Kennedy	Stafford
Case	Laxalt	Stennis
Chiles	Long	Stevens
Curtis	Mathias	Stone
Dole	McClellan	Taft
Domenici	McIntyre	Talmadge
Eastland	Mondale	Thurmond
Fannin	Montoya	Tower
Fong	Morgan	Tunney
Ford	Moss	Williams
Garn	Nunn	Young
Glenn	Pastore	

NAYS—32

Abourezk	Eagleton	Metcalf
Biden	Hart, Gary W.	Muskie
Bumpers	Hartke	Nelson
Burdick	Haskell	Packwood
Byrd, Harry F., Jr.	Hatfield	Proxmire
Byrd, Robert C.	Hathaway	Scott, William L.
Church	Helms	Stevenson
Clark	Hollings	Symington
Cranston	Huddleston	Weicker
Culver	Leahy	
Durkin	Magnuson	
	Mansfield	

NOT VOTING—9

Bayh	Hart, Philip A.	McGee
Cannon	Inouye	McGovern
Gravel	McClure	Sparkman

So the motion to lay on the table Mr. CLARK's amendment was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. CASE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 966

Mr. BIDEN. Mr. President, I call up my amendment, No. 966, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Delaware (Mr. BIDEN), for himself, Mr. CLARK, Mr. HASKELL, and Mr. STEVENSON, proposes an amendment numbered 966.

The amendment is as follows:

On page 3, beginning with line 17, strike out through line 21 and insert in lieu thereof the following:

SEC. 5. Any agreement entered into, understanding arrived at, or assurance made by any United States official with respect to any foreign country in connection with the "Basic Agreement" signed on September 4, 1975, by the Government of the Arab Republic of Egypt and the Government of Israel—

(1) is simply a statement of the present intentions of the executive branch;

(2) is not binding under domestic or international law; and

(3) may not be construed as limiting the freedom of the United States in pursuing its national interest in the Middle East.

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. BIDEN. I will yield to the Senator from Virginia, maintaining that this is the pending business, and on the Senator's hour that he has on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair inquires, is this one of those amendments on which the Senator from Delaware wishes to designate his 1 hour?

Mr. BIDEN. Yes; this is one of the amendments the Senator from Delaware has 1 hour, I believe the Senator from Iowa (Mr. CLARK) has an hour, Mr. HASKELL has a portion of an hour, and I am not sure, but I believe that Mr. STEVENSON has an hour.

This amendment is called up by me on behalf of Senators CLARK, HASKELL, and STEVENSON.

The PRESIDING OFFICER. The Chair thanks the Senator from Delaware.

The Senator from Virginia.

Mr. TAFT. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. WILLIAM L. SCOTT. I am glad to yield to the Senator.

Mr. TAFT. I thank the Senator.

Mr. President, I ask unanimous consent that Mr. William Lind be granted the privilege of the floor during debate and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Will the Senate please come to order?

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent that Charles Conneely of the Senate Armed Services Committee staff be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Senators will kindly take their seats and Senators will cease conversation or withdraw to the cloakroom.

The Senate will be in order.

Mr. WILLIAM L. SCOTT. Mr. President, I also ask unanimous consent that Mr. Jack White of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAM L. SCOTT. Mr. President, we all undoubtedly realize the seriousness of the matter under consideration today. The conflict in Southeast Asia is still vivid in our minds and, in my opinion, there is a similarity between the Gulf of Tonkin resolution that led to the involvement of 3.3 million American military personnel in Indochina, that resulted in the death of more than 56,000 Americans, and the wounding of more than 300,000, with a monetary cost the President has estimated at $150 billion. I realize that if this resolution is approved we will be on a peacekeeping mission and that civilian American personnel will be involved. Yet, the Middle East is a volatile part of the world. Recent conflicts date from 1947 although the Christians, Jews, and Moslems living in this area have been engaged in conflicts of various kinds for thousands of years, some of which have related to religion and some have not.

My concern is that the action we take this week not lay the foundation for our involvement in either a Middle Eastern war or a conflict between the major world powers. Frankly, I doubt that the Members of Congress have had time to read and to digest all of the available material on this subject or that there has been a full disclosure made by the administration. The matter has come upon us rather suddenly, 1 day after it was reported by the committee, and we are now committed to a final vote at 4 o'clock tomorrow afternoon. Therefore, I would like to take this time to analyze some of the facts, as I understand them, and to express deep concern.

Perhaps the best way to proceed is to look not only at the resolution before us but consider the memoranda of agreement between the Governments of Israel and the United States. I understand that these agreements, were included with documents released by the Committee on Foreign Relations on October 3, has been initialed by the Secretary of State on behalf of the Government of the United States but are awaiting action on this resolution before being signed.

Mr. President, I ask unanimous consent to have printed the documents released by the Committee on Foreign Relations in the RECORD.

Mr. CASE. Will the Senator yield?

I think they have been.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CASE. I think they have been introduced already, I may be mistaken.

Mr. HUMPHREY. Yes, they have, I introduced them.

Mr. CASE. I think the Senator from Minnesota did that.

Mr. WILLIAM L. SCOTT. Mr. President, the Chair has authorized the printing of them at this point and I am going to speak on them and to discuss those, so I would prefer that they be accompanying my remarks.

Mr. CASE. I am sorry, I did not realize that.

Mr. WILLIAM L. SCOTT. I appreciate the Senator's understanding.

EXHIBIT No. 1

U.S. SENATE, COMMITTEE ON FOREIGN RELATIONS, OCTOBER 3, 1975

The Committee on Foreign Relations today voted 12 to 2 to release the attached documents provided by the Department of State in connection with the Sinai disengagement proposal. Senators Sparkman, Church, McGee, McGovern, Humphrey, Clark, Biden, Case, Javits, Scott, Pearson and Percy voted aye. Senators Pell and Griffin voted no.

MEMORANDUM OF AGREEMENT BETWEEN THE GOVERNMENTS OF ISRAEL AND THE UNITED STATES

The United States recognizes that the Egypt-Israel Agreement initialed on September 1, 1975, (hereinafter referred to as the Agreement), entailing the withdrawal from vital areas in Sinai, constitutes an act of great significance on Israel's part in the pursuit of final peace. That Agreement has full United States support.

UNITED STATES-ISRAELI ASSURANCES

1. The United States Government will make every effort to be fully responsive, within the limits of its resources and Congressional authorization and appropriation, on an on-going and long-term basis to Israel's military equipment and other defense requirements, to its energy requirements and to its economic needs. The needs specified in paragraphs 2, 3 and 4 below shall be deemed eligible for inclusion within the annual total to be requested in FY76 and later fiscal years.

2. Israel's long-term military supply needs from the United States shall be the subject of periodic consultations between representatives of the United States and Israeli defense establishments, with agreement reached on specific items to be included in a separate United States-Israeli memorandum. To this end, a joint study by military experts will be undertaken within 3 weeks. In conducting this study, which will include Israel's 1976 needs, the United States will view Israel's requests sympathetically, including its requests for advanced and sophisticated weapons.

3. Israel will make its own independent arrangements for oil supply to meet its requirements through normal procedures. In the event Israel is unable to secure its needs in this way, the United States Government, upon notification of this fact by the Government of Israel, will act as follows for five years, at the end of which period either side can terminate this arrangement on one-year's notice.

(a) If the oil Israel needs to meet all its normal requirements for domestic consumption is unavailable for purchase in circumstances where no quantitative restrictions exist on the ability of the United States to procure oil to meet its normal requirements, the United States Government will promptly make oil available for purchase by Israel to meet all of the aforementioned normal requirements of Israel. If Israel is unable to secure the necessary means to transport such oil to Israel, the United States Government will make every effort to help Israel secure the necessary means of transport.

(b) If the oil Israel needs to meet all of its normal requirements for domestic consumption is unavailable for purchase in circumstances where quantitative restrictions through embargo or otherwise also prevent the United States from procuring oil to meet its normal requirements, the United States Government will promptly make oil available for purchase by Israel in accordance with the International Energy Agency conservation and allocation formula as applied by the United States Government, in order to meet Israel's essential requirements.

If Israel is unable to secure the necessary means to transport such oil to Israel, the United States Government will make every effort to help Israel secure the necessary means of transport.

Israeli and United States experts will meet annually or more frequently at the request of either party, to review Israel's continuing oil requirement.

4. In order to help Israel meet its energy needs, and as part of the overall annual figure in paragraph 1 above, the United States agrees:

(a) In determining the overall annual figure which will be requested from Congress, the United States Government will give special attention to Israel's oil import requirements and, for a period as determined by Article 3 above, will take into account in calculating that figure Israel's additional expenditures for the import of oil to replace that which would have ordinarily come from Abu Rodeis and Ras Sudar (4.5 million tons in 1975).

(b) To ask Congress to make available funds, the amount to be determined by mutual agreement, to the Government of Israel necessary for a project for the construction and stocking of the oil reserves to be stored in Israel, bringing storage reserve capacity and reserve stocks now standing at approximately six months, up to one-year's need at the time of the completion of the project. The project will be implemented within four years. The construction, operation and financing and other relevant questions of the project will be the subject of early and detailed talks between the two Governments.

5. The United States Government will not expect Israel to begin to implement the Agreement before Egypt fulfills its undertaking under the January 1974 Disengagement Agreement to permit passage of all Israeli cargoes to and from Israeli ports through the Suez Canal.

6. The United States Government agrees with Israel that the next agreement with Egypt should be a final peace agreement.

7. In case of an Egyptian violation of any of the provisions of the Agreement, the United States Government is prepared to consult with Israel as to the significance of the violation and possible remedial action by the United States Government.

8. The United States Government will vote against any Security Council resolution which in its judgment affects or alters adversely the Agreement.

9. The United States Government will not join in and will seek to prevent efforts by others to bring about consideration of proposals which it and Israel agree are detrimental to the interests of Israel.

10. In view of the long-standing United States commitment to the survival and security of Israel, the United States Government will view with particular gravity threats to Israel's security or sovereignty by a world power. In support of this objective, the United States Government will in the event of such threat consult promptly with the Government of Israel with respect to what support, diplomatic or otherwise, or assistance it can lend to Israel in accordance with its constitutional practices.

11. The United States Government and the Government of Israel will, at the earliest possible time, and if possible, within two months after the signature of this document, conclude the contingency plan for a military supply operation to Israel in an emergency situation.

12. It is the United States Government's position that Egyptian commitments under the Egypt-Israel Agreement, its implementation, validity and duration are not conditional upon any act or developments between the other Arab states and Israel. The United States Government regards the Agreement as standing on its own.

13. The United States Government shares the Israeli position that under existing political circumstances negotiations with Jordan will be directed toward an overall peace settlement.

14. In accordance with the principle of freedom of navigation on the high seas and free and unimpeded passage through and over straits connecting international waters, the United States Government regards the Straits of Bab-el-Mandab and the Strait of Gibraltar as international waterways. It will support Israel's right to free and unimpeded passage through such straits. Similarly, the United States Government recognizes Israel's right to freedom of flights over the Red Sea and such straits and will support diplomatically the exercise of that right.

15. In the event that the United Nations Emergency Force or any other United Nations organ is withdrawn without the prior agreement of both Parties to the Egypt-Israel Agreement and the United States before this Agreement is superseded by another agreement, it is the United States view that the Agreement shall remain binding in all its parts.

16. The United States and Israel agree that signature of the Protocol of the Egypt-Israel Agreement and its full entry into effect shall not take place before approval by the United States Congress of the United States role in connection with the surveillance and observation functions described in the Agreement and its Annex. The United States has informed the Government of Israel that it has obtained the Government of Egypt agreement to the above.

YIGAL ALLON,
Deputy Prime Minister and Minister of Foreign Affairs, For the Government of Israel.

HENRY A. KISSINGER,
Secretary of State, For the Government of the United States.

MEMORANDUM OF AGREEMENT BETWEEN THE GOVERNMENTS OF ISRAEL AND THE UNITED STATES

THE GENEVA PEACE CONFERENCE

1. The Geneva Peace Conference will be reconvened at a time coordinated between the United States and Israel.

2. The United States will continue to adhere to its present policy with respect to the Palestine Liberation Organization, whereby it will not recognize or negotiate with the Palestine Liberation Organization so long as the Palestine Liberation Organization does not recognize Israel's right to exist and does not accept Security Council Resolutions 242 and 338. The United States Government will consult fully and seek to concert its position and strategy at the Geneva Peace Conference on this issue with the Government of Israel. Similarly, the United States will consult fully and seek to concert its position and strategy with Israel with regard to the participation of any other additional states. It is understood that the participation at a subsequent phase of the Conference of any possible additional state, group or organization will require the agreement of all the initial participants.

3. The United States will make every effort to ensure at the Conference that all the substantive negotiations will be on a bilateral basis.

4. The United States will oppose and, if necessary, vote against any initiative in the Security Council to alter adversely the terms of reference of the Geneva Peace Conference or to change Resolutions 242 and 338 in ways

which are incompatible with their original purpose.

5. The United States will seek to ensure that the role of the cosponsors will be consistent with what was agreed in the Memorandum of Understanding between the United States Government and the Government of Israel of December 20, 1973.

6. The United States and Israel will concert action to assure that the Conference will be conducted in a manner consonant with the objectives of this document and with the declared purpose of the Conference, namely the advancement of a negotiated peace between Israel and each one of its neighbors.

YIGAL ALLON,
Deputy Prime Minister and Minister of Foreign Affairs, For the Government of Israel.

HENRY A. KISSINGER,
Secretary of State, For the Government of the United States.

ASSURANCES FROM USG TO ISRAEL

On the question of military and economic assistance to Israel, the following conveyed by the U.S. to Israel augments what the Memorandum of Agreement states.

The United States is resolved to continue to maintain Israel's defensive strength through the supply of advanced types of equipment, such as the F-16 aircraft. The United States Government agrees to an early meeting to undertake a joint study of high technology and sophisticated items, including the Pershing ground-to-ground missiles with conventional warheads, with the view to giving a positive response. The U.S. Administration will submit annually for approval by the U.S. Congress a request for military and economic assistance in order to help meet Israel's economic and military needs.

ASSURANCES FROM USG TO EGYPT

1. The United States intends to make a serious effort to help bring about further negotiations between Syria and Israel, in the first instance through diplomatic channels.

2. In the event of an Israeli violation of the Agreement, the United States is prepared to consult with Egypt as to the significance of the violation and possible remedial action by the United States.

3. The United States will provide technical assistance to Egypt for the Egyptian Early Warning Station.

4. The U.S. reaffirms its policy of assisting Egypt in its economic development, the specific amount to be subject to Congressional authorization and appropriation.

Mr. WILLIAM L. SCOTT. Mr. President, I understand that the media has reported the Secretary of State, in testimony before the Committee on Foreign Relations, testified that the approval of the resolution now under consideration would trigger the signing of memoranda of agreement set forth above by the United States. The Secretary also confirmed this in testimony before the Armed Services Committee. Ordinarily, Mr. President, I would not disclose information from an executive session of our Armed Services Committee but just as a judge is justified in taking judicial notice of what the world knows, a Member of the Senate is justified, in my opinion, in stating a fact that has previously been disclosed in newspaper accounts, as this material has.

Mr. President, our action on this resolution can well commit the United States to a course of action which could continue for a long period of time. Certainly there is more involved than the ratification of a tentative commitment to send 200 observers to the passes separating the forces of Egypt and Israel.

I was quite pleased, Mr. President, to note that the distinguished Senator from Minnesota (Mr. HUMPHREY) indicated that if we did not feel that we could support, or that the administration would be committed to all of these side agreements, then we should not support this resolution.

He was very frank in his discussion here on the floor just a few minutes ago.

You may remember, Mr. President, that an amendment by the distinguished Senator from South Carolina (Mr. HOLLINGS) was tabled last night. As I understood this amendment, it merely reaffirmed our Government's commitment to the United Nations Resolution 242. The reasoning of the opponents to the resolution was that all nations in the Middle East favor resolution 242 and that it was superfluous to include it in this resolution.

However, as we know, the United Nations resolution, among other things, calls for Israel withdrawing its troops to the 1967 borders. However, as you know, the United Nations resolution, among other things, calls for Israel withdrawing its troops to its 1967 borders and the United Nations recognizing and approving the sovereignty of Israel over all the territory within the 1967 borders. I would like to hope that this is true. However, as you know, Israel continues to occupy territory of three nations outside of the 1967 borders and the proposal before us would send our observers to an area in the Sinai outside of these borders.

Let us, however, examine some of the documents released by the Committee on Foreign Relations on October 3. The first is a memorandum of agreement between the Governments of Israel and the United States, with the heading, "United States-Israeli Assurances," numbered paragraph 1, reads as follows:

The United States Government will make every effort to be fully responsive, within the limits of its resources and congressional authorization and appropriation, on an ongoing and long-term basis to Israel's military equipment and other defense requirements, to its energy requirements and to its economic needs. The needs specified in paragraphs 2, 3 and 4 below shall be deemed eligible for inclusion within the annual total to be requested in FY 76 and later fiscal years.

From the reading of this paragraph, one can see the far-reaching commitment we are contemplating. Yet, it is only the first paragraph of an agreement that would be triggered by our approval of the resolution now before us.

I hope Senators will examine the entire memorandum but paragraph 4(b) indicates the administration will ask Congress to make funds available "for the construction and stocking of the oil reserves to be stored in Israel, bringing storage reserve capacity and reserve stocks, now standing at approximately 6 months, up to 1 year's needs at the time of the completion of the project." If our supply of oil from abroad was cut off, would we have a full year's supply stored to meet our own needs? I am advised that our own storage supply would last from 6 to 8 weeks.

There are roughly 5,000 United Nations observers in the area. I understand they are drawn primarily from the smaller nations of the world. Frankly, I fail to see the need for Americans to be placed in a position between two hostile nations even though at this moment they express a desire to settle their differences in a peaceful manner. My mail from Virginia is running 15 to 1 against this proposal. While this ratio may be too one-sided to reflect the feelings of the American people generally, I believe, if the American public were made aware of all of the facts agreed to or contemplated to be executed upon approval of this resolution, they would overwhelmingly reject the matter before us today.

To my way of thinking, it is not in the national interest to commit ourselves so deeply to any one nation. My own ancestors came from Ireland, Scotland, and England. Yet, it would be very repugnant to my thinking for us to become involved in the conflict in Northern Ireland. Many of our ancestors came here to avoid conflicts of the Old World. The Arab nations profess their friendship for the United States. They indicate they are reconciled to the continued existence of Israel as a sovereign nation. It would appear to be in our own national interest to accept their friendship, to continue our friendship with Israel, to attempt to be more evenhanded in our relationship with all of the nations of the Middle East.

Now, Mr. President, I understand that both Egypt and Israel are agreeable to the stationing of American observers at the passes in the Sinai but I wonder if either they, the American people, or even the Members of the Senate are aware of all of the agreements legally or morally binding upon this country if this resolution is approved.

Returning, Mr. President, to the memorandum of agreement between our Government and the Government of Israel, included in the documents released by the Committee on Foreign Relations on October 3, we find the statement in numbered paragraph 10:

In view of the long-standing United States commitment to the survival and security of Israel, the United States Government will view with particular gravity threats to Israel's security or sovereignty by a world power. In support of this objective, the United States Government will in the event of such threat consult promptly with the Government of Israel with respect to what support, diplomatic or otherwise, or assistance it can lend to Israel in accordance with its constitutional practices.

Now remember, Mr. President, this is a part of the memorandum of agreement between the Government of Israel and the United States which our Government would agree to in the event this resolution is passed. The media has said that the Secretary of State, in his testimony before the Committee on Foreign Relations, has said our approval would trigger his signature on behalf of the United States; and the Secretary confirmed this

fact in his testimony before the Committee on Armed Services.

It is my understanding from a reading of article II, section 2 of the Constitution, that the President, "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." The President, however, has chosen to take a different course and to submit this agreement to both the House and Senate. Frankly, the question of Executive agreements is a nebulous thing, something that is not sanctioned by the Constitution; and I am not aware of a provision of the Constitution that specifically authorizes the course we are taking today. It would certainly satisfy the constitutional provision if we considered this a treaty and it was confirmed by a two-thirds vote of the Senate. To me this was the intention of the framers of the Constitution. However, we might return to the language of paragraph 10 of the memorandum. What is meant by the phrase that "our Government would view with particular gravity"? What is meant by "a threat to Israel's security or sovereignty"? What nations of the world are considered to be "world power"? What do we mean by the phrase that "our Government would support Israel diplomatically or otherwise"? Would this "otherwise" include the introduction of U.S. military forces into the Middle East? What is meant by the phrase "with our Government assisting in accordance with its constitutional practices"? Would this attempt to commit the Congress to a declaration of war or commit the President to recommend a declaration of war when the survival or security of Israel is threatened?

Mr. President, my reason for dwelling on this paragraph 10 of what was a secret agreement, published by the news media and later made public by the Committee on Foreign Relations, is to simply indicate that we are considering a whole lot more than merely committing 200 civilian observers to the passes separating the forces of Israel and Egypt.

In my opinion we are committing this Government on a course of action that could very well involve us militarily in the Middle Eastern conflict.

This is further indicated by another memorandum of agreement designated as "G" in the group of documents, which reads as follows:

ASSURANCES FROM USG

I assume that means the U.S. Government—

TO ISRAEL

On the question of military and economic assistance to Israel, the following conveyed by the U.S. to Israel augments what the memorandum of agreement states.

The United States is resolved to continue to maintain Israel's defensive strength through the supply of advanced types of equipment, such as the F–16 aricraft. The United States Government agrees to an early meeting to undertake a joint study of high technology and sophisticated items, including the Pershing ground-to-ground missiles with conventional warheads, with the view to giving a positive response. The U.S. administration will submit annually for approval by the U.S. Congress a request for military and economic assistance in order to help meet Israel's economic and military needs.

A casual reading of the "G" portion of the agreement indicates we are committing ourselves to provide Israel with some of the most advanced and sophisticated military equipment we possess. In fact, the F–16, a lightweight fighter plane, is not yet in general use by our own military forces, and it may well be several years before we have an adequate supply of this new aircraft to meet our own needs. I have been informally advised that it will probably be 1979 before this aircraft is in general use by our own military forces. We might question whether the F–16 aircraft, the Pershing missile, and other sophisticated weaponry will be drawn from existing inventories or from new production. Will we actually put the welfare of Israel ahead of the welfare of our own country? Such a thought seems untenable but I do urge you to read these documents.

Mr. President, by way of summation, the main thrust of this resolution is that of approving the stationing of up to 200 U.S. civilian technicians in the Sinai between the forces of Israel and Egypt. The question readily comes to mind: Why U.S. observers? Why not utilize some of the existing 5,000 United Nations observers already in the Middle East?

Why not use observers from some of the smaller nations of the world? Are the primary parties in interest asking the U.S. personnel to be more than observers? Are they asking that we be the referee between two hostile nations? Are they holding the U.S. observers as hostage over a period of years to guarantee that no attacks will be made through the passes? The threat of world peace would not be as great if personnel of smaller nations were utilized. We might consider the question some have raised as to whether the use of our personnel might be a prelude to the use of Soviet Russian personnel on the Golan Heights between Israel and Syria.

I am also concerned, Mr. President, whether even the documents released by the Foreign Relations Committee constitutes all agreements made on behalf of the United States that are legally or morally binding upon us. In this connection I would call attention to page 4 of the report on this resolution by the committee. In the middle of the page it reads as follows:

Mr. Kissinger said that the executive branch also included excerpts from other classified documents "in the negotiating record which the administration believes are legally binding assurances, undertakings, or commitments. We have included in this category certain provisions which, although not regarded by the administration as binding, might be so regarded by others."

Now, Mr. President, I believe the word "excerpt" is important in this paragraph. As I understand it the chairman of the Committee of Foreign Relations and the ranking member have been shown these documents but, by the language of the report itself, they have only been shown excerpts from classified documents, not the full original documents, or copies of the full documents. We are still legislating without complete knowledge of the facts and it is very difficult, if not impossible, to make the correct decision without all of the facts.

If we consider what is in the best interest of the United States and our own national welfare ahead of all other factors, I believe we will reject this resolution, and I hope that each of us will reflect very deeply on all the implications of this proposal before casting our vote at 4 o'clock tomorrow afternoon.

Mr. CASE. Mr. President, will the Senator yield?

Mr. WILLIAM L. SCOTT. I am glad to yield to the distinguished Senator from New Jersey.

Mr. CASE. The Senator is dealing with a very important point, one which engaged the close attention of the committee for a number of days. As a Member who was very much involved in the question that the Senator has raised, I can say only this: That the record as stated here is absolutely as the report indicates. We were concerned that we should see everything that represented an undertaking or assurance by the administration on which either party is entitled to rely. We made a public statement to that effect, which was picked up by the committee and embodied in a resolution of the committee which appears here on page 2:

Resolved, That the President is requested to inform the Committee on Foreign Relations of all the assurances and undertakings by the United States on which Israel and Egypt are relying in entering into the Sinai agreement and that there are no other assurances or undertakings.

We did not request all documents. We requested undertakings and assurances. We wanted to be more complete and comprehensive than just an examination of written documents would permit. So we asked for it in this fashion, and it was in this fashion that the President, through the Secretary of State, certified that we had everything.

The committee responded to that request, and, as Senators know, certain of the documents and assurances were shown to Senator Sparkman and to me. In respect to them, we made the certification which appears here on page 6.

That really is the whole story. So I feel, myself, that we have seen everything on which the parties are relying here, assuming we can believe the Secretary of State and the President, and I do assume that. I would not have acted if I had thought otherwise.

Mr. WILLIAM L. SCOTT. Mr. President, I do not suggest that the Secretary of State has in any way misled either the Committee on Foreign Relations or the Committee on Armed Services; but I would like to have a little additional colloquy with the distinguished Senator from New Jersey.

The word "excerpts" is used here. I assume those are the classified documents that only the chairman and the ranking Republican member were permitted to see. Is that what it refers to, in the middle of page 4, that they were made available so that the chairman and

the ranking Republican member of the Committee on Foreign Relations could look at them?

If those are not the documents, how would the distinguished Senator describe the documents that only he and the chairman were permitted to examine? I believe two members of the Senate Armed Services Committee were also afforded that privilege. I do not know whether they exercised it or not.

Mr. CASE. I do not know either, about that. As far as Senator SPARKMAN and I are concerned, we saw some material—may I have the attention of the staff director? Senator SPARKMAN and I saw 11 pieces of paper. Was it 10? Well, whatever it was. Of which I think all but one were original documents, a letter or agreement of some kind.

One document was, I think, a single sheet or maybe two sheets of paper on which there were maybe three or four different paragraphs, each of which related to a specific different kind of assurance. It is that, I think, that the Secretary was thinking about and in that he responded to our request. It was my understanding, and I am sure that I am correct about it, that that responded to our request that we be given not only written documents, but also any kind of statement contained in oral communications which represented either assurance or undertaking which the parties could properly say was an amendment to them to enter into this.

Mr. WILLIAM L. SCOTT. Let me ask the distinguished Senator, Is it not true that the Secretary of State had his legal advisers go through these documents to determine what should be made available to the committee and to the committee as a whole and then also what should be made available to the chairman and the ranking member. This word "excerpts" would indicate as the distinguished Senator has said that this is correct, that this paragraph on page 4 is correct, that that would indicate that the distinguished Senator from New Jersey, even in his more distinguished capacity, or more privileged capacity than the balance of the Senate, still did not see every part of every document that in any way related to the overall Middle Eastern situation. Would that be a fair statement that he did not see all documents in their entirety?

Mr. CASE. I do not understand that that is true. I believe that we have received everything that represented assurance or an undertaking on which the parties here were entitled to rely.

Mr. WILLIAM L. SCOTT. Who made the decision as to what the Senator would see and what he would not see?

Mr. CASE. On this there is no question about this fact. We certainly relied upon the President's assurance and upon the Secretary's assurance to that effect. That means that they made this examination on their own. I believe, knowing the Secretary's deep concern about this, that he and Under Secretary Sisco actually made the choice that there was no reference——

Mr. WILLIAM L. SCOTT. I am not trying to attack the Secretary of State.

Mr. CASE. I know that is true, because it was not for this purpose as I understand it, that the legal counsel was brought in.

He was brought in later to deal with a question of whether these particular documents already in the public record now were what he called legally binding or not.

Mr. WILLIAM L. SCOTT. It was my understanding that he reviewed the documents and made the decision as to what should be sent to the committee and what was pertinent for the committee.

I again ask the Senator whether this statement in the middle of page 4 of the committee's report is accurate that "Mr. Kissinger said that the executive branch also included excerpts from other classified documents"? The word "excerpts" is the word that I am getting at. Of course, excerpts, taken from the document, would not include the document in its entirety. This is the thrust, really, of my question to the distinguished Senator.

Mr. CASE. I think the Senator really is reading in too much, reading perhaps the words a little too closely, and drawing too much significance from such a reading.

I am quite sure that when he talked about excerpts he is talking about in the negotiating record.

Mr. WILLIAM L. SCOTT. I am reading from the report.

Mr. CASE. I am quite sure he was referring there, and I am sure that he said this to me, that classified documents included transcripts of oral communications, and that he drew from the transcripts. Obviously, we do not have the complete transcript of all their discussions. We do not. But he was asked, and I rely on the fact and all of us in the committee relied on the fact—whether they are for or against this agreement—and the assurance that these were all the documents that constituted undertakings or assurances on which the parties were relying.

Mr. WILLIAM L. SCOTT. I have one further question, if the distinguished Senator would bear with me.

Mr. CASE. Surely.

Mr. WILLIAM L. SCOTT. Are there documents that the distinguished Senator from New Jersey and the distinguished chairman (Mr. SPARKMAN), of Alabama, have seen that have not been available to all Members of the Senate?

Mr. CASE. That is true. There are some 10, I guess, such documents, and those are the ones referred to in our statement to our colleagues on the committee which appears on page 6.

Mr. WILLIAM L. SCOTT. Would it be a breach of trust for the Senator to tell us in some broad sense what these documents are?

Mr. CASE. Our statement covers that, I think, and I would be glad to repeat the statement. There were, in the first place, in those documents—and I think everyone understood that this was true—certain assurances that were given by Egypt to us for communication to Israel and certain communications given to us by Israel for communication to Egypt. These were excluded from concern by all of us by mutual consent.

For the rest of it, the documents consisted, as I recall it, of several communications by the President, some to Israel and, I think, some to Egypt. That is about the sum and substance of their general nature.

Mr. WILLIAM L. SCOTT. Those would not be the letters that are included in another group of papers. I see here a letter from the President on the Secretary of State's stationery. Even though it has Secretary of State, Washington, as the heading, it is signed by Gerald R. Ford, so it is from the President to His Excellency Anwar Sadat, President of the Arab Republic of Egypt in Cairo. Is this what the distinguished Senator is talking about? I believe this has been released by the committee. It must be something else.

Mr. CASE. This document was one of the documents released by the administration and which is in the public record. It is not one of those.

Mr. WILLIAM L. SCOTT. It is not?

Mr. CASE. No.

Mr. WILLIAM L. SCOTT. It is not that.

Mr. President, I appreciate the position in which the distinguished Senator from New Jersey finds himself.

Mr. CASE. I am more than happy to be just as cooperative as I can, because I believe, as much as any other Member and more than perhaps some, I was deeply concerned about the matter of seeing that Members of Congress who had to pass on any part of this arrangement should know what the whole arrangement was.

Mr. WILLIAM L. SCOTT. Mr. President, the Committee on Foreign Relations has done a service to the entire Senate in declassifying by its own action a number of these documents.

The distinguished Senator from Minnesota, who has been the manager of the bill for a major part of it today, has done a service when he indicated a few minutes ago, that he felt, unless the Members of the Senate believed it to be in the best interest of our Government, to go ahead, not only with the stationing of the 200 observers in the Sinai, but also to the execution of the other agreements, they should vote against this resolution.

Mr. President, I do not believe it is in the best interests of this Nation, when we not only look at the 200 observers to be stationed there but also only look at the other agreements that will be triggered into being executed on behalf of the United States if this resolution is approved. If we consider what is in the best interests of the United States, if we consider our own national welfare ahead of that of all other factors, I believe we will reject this resolution.

I hope that each of us will reflect very deeply on the implications of this proposal before casting our vote at 4 o'clock tomorrow afternoon.

Mr. President, I reserve the remainder of my time.

Mr. CASE. Mr. President, what is the time situation on my colleague's allotment?

The PRESIDING OFFICER. The Senator from Virginia has 19 minutes remaining.

Mr. CASE. Mr. President, there is an interesting absence of Members, but certain significant Members are here. Does anyone wish to address himself to the question and wish time which he may have himself?

Mr. ALLEN. Mr. President, will the Senator yield me 3 minutes?

Mr. CASE. On this matter or for some other purpose?

Mr. ALLEN. On this issue.

Mr. CASE. Mr. President, how much time do we have on our side?

The PRESIDING OFFICER. Eighty-six minutes.

Mr. CASE. I am happy to yield 3 minutes to the Senator.

Mr. ALLEN. Mr. President, I shall vote against the resolution when it comes up for a vote.

I outlined my misgivings as to the so-called interim peace agreement on September 8, 1975, in an article that I wrote for Alabama newspapers, which I made the subject of a radio speech back to Alabama. On September 22, 1975. I took a definite stand against sending American technicians into this no man's land.

I ask unanimous consent that these two statements be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

MIDDLE EAST ACCORD TO COST U.S. BILLIONS OF DOLLARS

Unquestionably the President and Secretary of State Kissinger deserve high marks for their efforts in obtaining a three year interim peace agreement between Israel and Egypt. No doubt the agreement will go far in assuring that there will be no new and disastrous oil embargo imposed by the Arab countries during the three year period of the agreement, and it should go far in helping ease international tensions over a Middle East stalemate.

But having said that, I must also say that I am deeply concerned about the escalating involvement of the United States in the Middle East as the guarantor of peace—and let's face it—the United States is in effect buying the peace with billions of American taxpayers' dollars.

Then too, Egypt and Israel have said that the single most important factor that brought about their agreement is that the United States will station 200 or more American civilian technicians in the Sinai Desert to operate electronic early attack warning stations located in the no-man's land between the two opposing armies.

This American presence is supposed to reassure the two sides that they will be given advance information of any military buildup by the other side, reducing the dangers of a surprise attack.

But what would happen if this American force was attacked, accidentally by either side or by design by Palestinian forces determined to block any peace agreement? I have not forgotten that a small handful of American advisors was the beginning of our involvement in Southeast Asia, and I certainly don't want another Vietnam situation.

In addition to supplying technicians, the United States is to guarantee that Israel will receive oil to replace what they will be giving up from the Sinai oilfields which will be returned to Egypt. Uncle Sam will pick up most, if not all, of the $350 million cost. Why, we can't even guarantee oil to our own citizens.

Then, on top of that, the United States is to give some $9 billion over the next three years in economic and military aid to Israel, to Egypt and perhaps to other Arab countries. How much are the Russians paying? A great big zero.

In return for our commitments, Israel will move back into the Sinai Desert 12 to 30 miles along a 300 mile line stretching from the Mediterranean Sea to just below the oil fields half way down the Sinai along the Red Sea. This will permit Egyptian forces to advance up to 10 miles from their present lines.

Figuring the price tag at 9 billion dollars over 3 years and an almost average drawback of 20 miles, this means that the United States is going to pay $90,000 for every foot the Egyptians go forward in the desolate, barren desert wasteland. It seems to me that the asking price is far more than the United States will receive in value. If we pay $9 billion for this withdrawal, how many billions will the next withdrawal cost.

If this interim agreement is supposed to bring peace to the Middle East, why is the United States being asked to supply both sides with additional billions of dollars worth of the newest, most sophisticated weapons in our arsenal? If peace is the aim, shouldn't there be a reduction in weapons and armies?

Peace in the Middle East—or anywhere else—cannot be imposed or purchased by the United States or by any other country. A binding and permanent peace can only come from direct face-to-face negotiations between the Arab countries and Israel in which both sides give as well as take, and without further involvement by the United States.

The President has said that the Congress will be fully informed of all U.S. commitments under the Middle East interim agreement, and I intend to make sure that everything is placed face-up on the table so it can be read and understood by the American people. I anticipate a full scale and lengthy debate in the Senate on this matter. Let us read the fine print of the agreement and let us learn of all of the secret agreements, if any.

T.V. SCRIPT, SEPTEMBER 22, 1975

The President's proposals for U.S. involvement in the Middle East interim peace will probably be sent to the Senate within a few days. When asked his views regarding the agreements and particularly the use of 200 American technicians, Senator Jim Allen said:

"It is a strange peace agreement that calls for the United States to pay an estimated $9 billion over the next three years building up both sides militarily, but let's lay this aside for a moment.

"Putting Americans in a buffer zone between the warring forces is not my idea of putting American interests first. These American technicians are not needed because each side will have its own early warning system. They will be hostages to insure our further involvement in a Mid-East War in the event there is no final settlement, and could be the basis for American intervention if anything happened to them.

"I will oppose sending American technicians into a new No-Man's land, for this could well be the start of World War III. Is technician a new word for the American advisors who preceded American troops in Viet Nam? Haven't we learned any lessons from Viet Nam?"

The PRESIDING OFFICER. Who yields time?

Mr. CASE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Delaware.

Mr. BIDEN. I yield to the Senator from Illinois.

Mr. STEVENSON. Mr. President, this amendment, offered by the Senator from Delaware and others, including myself, simply codifies the expressions of the proponents of this resolution and, among others, the Secretary of State.

This amendment says that any assurance or commitment by the United States in connection with the Sinai accord is simply a statement of the present intentions of the executive branch, is not binding under domestic or international law, and may not be construed as limiting the freedom of the United States in pursuing its national interests in the Middle East.

Those are all statements which have been made in connection with this resolution by the Senator from Minnesota and by others of the opponents.

Mr. President, there seems to be an impression on the part of some Members of this body that the issue before us is the American technicians to be placed in the Sinai. That is not the issue. The issue is twofold.

First of all, it is the accord, the four corners of the accord which fall into place upon enactment by Congress of a resolution which simply approves the stationing of those technicians in the Sinai. The issue is the accords. Is it a statement of this administration's present intentions? Is it binding or not binding under law? Will it be construed to limit the freedom of the United States in the future? The issue is the commitment, the undertakings, of the United States in that accord and whether and to what extent they are binding.

Mr. President, under this accord, Egypt is promised about $600 million in economic assistance. Israel is promised $2.3 billion in economic and military assistance. The total dollar costs of aid to Israel and Egypt was estimated to be $15 billion or more for 5 years. Since the first stage of disengagement, when the President and the Secretary of State offered nuclear reactors to Egypt and to Israel, the ante has been upped.

Those dollars are the smallest part of the price for the second stage, a few more miles into Sinai. Israel's longer term military supply needs are promised a positive response by the United States. The Egyptians are also promised technical assistance for an early-warning system and, in the future, the possibility of military aid.

The United States assures Israel of oil supply, including a 1-year reserve, and, in case of a boycott, oil from the U.S. domestic supplies. Among other things, the United States supports, with an implied promise of intervention if needed, Israel's freedom to navigate the Strait of Gibraltar and the Bab-el-Mandeb Strait.

By reference to the wording of the mutual defense agreement, section 10 of the accord appears to be a commitment of the United States to defend Israel in the event of attack.

Mr. President, some of Israel's stout-

est friends and defenders—and I am among them—are deeply disturbed by these undertakings. We know too well what can befall the United States when it makes promises beyond its power to keep.

That is not all. Weapons, including the F–16's, cannot fail to spur an arms race in the Middle East. Particularly disturbing is the promise that the United States will consider Pershing missiles and other items of high technology.

The Pershing is designed to carry a nuclear warhead, and very few states in the area, of whatever political stripe, will be reassured by the statement that these particular Pershings will carry conventional warheads.

Israel has Jericho missiles capable of delivering nuclear warheads to the capitals of its neighbors. It would seem that the purpose of the Pershings is to make the U.S. commitment to Israel more formidable to the other Mideast states. We then open wider the Middle East door to the Soviet Union, after having sought to close it.

Mr. President, those are but a few of the undertakings. Others would appear to limit action of the United States in the Security Council of the United Nations and at a reconvened Geneva Conference.

All those commitments, however binding they may be, would be well worth the price if they served Israel, if they served the cause of peace—above all, if they served the United States.

That, Mr. President, brings me to the second part of this issue, the real issue: What does this accord, whatever its interpretation, achieve? Does it only buy time, or a few more miles in the Sinai? If so, Mr. President, that price, whatever the interpretation, may be too high. The time which this accord may buy has disadvantaged Israel. It has disadvantaged moderate elements in the Middle East. It has disadvantaged the cause of peace in the Middle East.

Mr. President, about this time last year, I was the recipient of the Man of the Year Award at the annual Israel Bond dinner in Chicago. I have, in all my years of political life, been a faithful, if not among the very most faithful, friend and supporter of Israel. I say what I say now largely for that reason: It is time for the friends of Israel to say what is in their hearts. Many of them share the misgivings which I express but do not speak them.

This accord, Mr. President, may postpone the next battle in what has been one long war since the late 1940's. This provisional settlement has many of the earmarks of previous settlements, in which the opposing sides were bought off during the hiatus between battles to rearm for the next one. So it was in 1967, in 1970, in 1973. In each case, the United States helped relieve the warring parties of the responsibility for settling their differences on a permanent basis by offering them tempting alternatives, alternatives that have been expensive to the American taxpayer, alternatives that have been expensive to the Israeli, that have escalated the quantity and the sophistication of the weaponry, guaranteeing, always, a higher level of violence in the next battle.

This accord, Mr. President, may buy time, but time has disadvantaged Israel. It has disadvantaged the moderate elements in the Middle East. It has disadvantaged the cause of peace. After the 1968 war, it was possible to piece together the elements of a comprehensive settlement, leaving aside the knotty question of Jerusalem, which, in fact, might then have been left aside. Now the Arab world has acquired the oil wealth. The greater wealth is on its side. The Israeli economic condition has deteriorated. Its isolation in the world is greater than before. Its sources of financial support in the outside world are stretched thin.

The Arabs have acquired a new degree of unity. Jordan and Syria are composing a joint command. The PLO has been recognized by the Arabs as the agent for the Palestinians. All the while, the arms have poured in. Now, the next battle will be accompanied by another oil embargo, a world recession, and, quite possibly, by nuclear violence.

Mr. President, more time—time alone—is not enough to justify this accord and the risks that we are asked to take. The step-by-step approach to peace in the Middle East of the Secretaries is valid if one step leads logically to another, if the end result in view is a coherent and permanent settlement.

If that were the prospect, the risks that we are asked to assume for the United States would be worthwhile. But the documents to which the American people have been made privy, by accident as well as by design, and the public statements of the President and the Secretary of State, do not encourage one to believe that there is any coherent plan for progress toward a final settlement.

We have been given vague references to a possible resumption of the Geneva Conference. The references to a bilateral settlement in Syria made one day were discounted almost the next. If there is a plan, Mr. President, if there is something to be gained with the terrible price that we are asked to assume, what is it? A pledge by the Secretary of State to the General Assembly of the United Nations that the United States would "support whatever process seems most promising" is not reassuring.

Is there at last, Mr. President, to be an effort to win the cooperation of the other arms suppliers and cut off the flow of arms to that troubled part of the world, creating at last a climate for peace instead of for war? The Secretary has admitted that there has been no such effort.

This accord would appear to preclude such an effort that seems to commit more arms and more sophisticated arms to Israel, to Egypt, and then, independently, to Jordan.

Those, Mr. President, are the real issues. What is achieved? Without knowing the answer to that first question, it is impossible for Congress to determine whether the price, the cost, is worth assuming.

The second part of that issue is the cost itself. What is the cost we are asked to assume for the country?

Mr. President, it has been said these commitments are not decisive, that the risk is minimal and, indeed, the risk of our not acting is far greater; that the alternative to the enactment by Congress of the resolution is war.

If that is so, Mr. President, this resolution should be adopted, for all it does is codify what has been represented to Congress and to the Members of the Senate today. It does not prevent the executive branch from binding itself, from engaging its own good faith. All it does is take the administration at its word. All it does is say that these commitments are statements of present intention; they are not legally binding, and they do not restrict the freedom of action of the United States for the future.

If those statements and those representations are true than there should be no objection to this amendment. If, Mr. President, there is objection, then every Member of this body will have notice that these statements, these assurances, these undertakings have a far greater significance for the United States than has been avowed by their supporters.

Others have drawn an analogy to the Gulf of Tonkin resolution. I was not a Member of this body at that time. I probably would have been unwise enough to have voted for it, but I hope not unwise to have made the same mistake twice. But that episode is not a fair analogy.

A better analogy, Mr. President, is the so-called Paris peace accords which preceded the Sinai accord. It, too, was followed by euphoria. Peace, as the Members will recall, was just around the corner, it was at hand. But the administration then made a mistake. There were very few Members of Congress who saw it, as did one or two, for what it really was, just a face-saving device for removing American troops without the expense of perpetuating an increasing American involvement in that continent, but in a different form.

The administration made a mistake. It did not then implicate Congress, and it was Congress which, as a result, subsequently was free to disengage the United States from the conflict in Vietnam. It was not a party to any commitments. It had no knowledge of the letter from President Nixon to Mr. Thieu.

In that case, Mr. President, the Congress of the United States was in a position to maintain its freedom of action. In that case, Mr. President, the Congress did its duty. It ceased the funding of American involvement in that conflict—belatedly.

In this case, Mr. President, unless such an amendment as this is adopted, it will forfeit its freedom of action, and not alone Congress but also the executive branch and Presidents to follow this one.

All this amendment does is to codify into the law the assurances which we have received, and if that is not acceptable or if it is not done, then we had all better be aware that we are taking a very high risk with no assurance, no indication of what is to come, of what, Mr. President, we are achieving with that risk.

So I urge the adoption of this amendment which has been offered by the

Senator from Delaware. I thank the Senator for yielding me the time, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HASKELL. Mr. President, as the Senator from Illinois said, the issue is not the 200 technicians. Under the resolution reported by the Foreign Relations Committee they are to be volunteers. They will be of age and they will know what they are doing. If they run into trouble that is a necessary risk we must assume.

The issue really is do we commit the United States of America to certain very dangerous agreements. I will read two portions of the memorandum of agreement which, I think would obligate the United States of America to go to war. I read from the memorandum, paragraph 3(a), the last sentence:

> If Israel is unable to secure the necessary means to transport such oil to Israel, the United States Government will make every effort to help Israel secure the necessary means of transport.

Now, Mr. President, please note the use of the word "every" which, obviously, would include military as well as economic and diplomatic effort.

Then, Mr. President, I refer to paragraph 14, as I did earlier today in the debate on the previous amendment, on the support to be provided Israel to free and unimpeded access through the Strait of Bab-el-Mandeb, and the Strait of Gibraltar is absolutely unqualified. However, the guarantee to Israel as far as freedom of flights over the Red Sea and such straits, the support is diplomatic. I think the only conclusion at which one can arrive is the right of passage through the Strait of Bab-el-Mandeb will be guaranteed by military force.

Mr. President, these agreements are without a termination date, and I am not willing to commit the United States to go to war at some undisclosed future time should the Strait of Bab-el-Mandeb be closed to Israel or should we have to transport oil to Israel.

Therefore, Mr. President, I joined with the distinguished Senators from Delaware, Iowa, and Illinois in this amendment.

This amendment is a substitute for paragraph 5 of the Joint Resolution 138, and that paragraph 5, as read, purports to disassociate Congress from any of these agreements.

I will read it:

> Does not signify approval of the Congress of any other agreement, understanding or commitment made by the executive branch.

This is an attempt to wash our hands of the whole thing, but it will not wash, for a couple of very clear reasons.

First, paragraph 16 of the memorandum states:

> United States and Israel will agree that signature of the protocol of the Egypt-Israel agreement and its full entry into effect shall not take place before approval by the United States Congress of the U.S. role in connection with the surveillance and operations, functions, described in the agreement.

Right there is the action of Congress which probably will be approved this evening or tomorrow. Its approval will trigger the entire network of agreements. If further evidence of this is necessary, I ask unanimous consent to have printed in the RECORD, two letters addressed to the Honorable THOMAS E. MORGAN from Monroe Leigh, legal adviser to the State Department, one dated September 18, 1975, one dated September 29, 1975.

I ask that these be placed following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. HASKELL. Mr. President, the Congress is thoroughly involved, thoroughly committed, despite what we say. We have committed to agreements which in my reading in at least two instances is quite clear the U.S. Government is committed to involve its Armed Forces.

Mr. President, the amendment which the Senate is being asked to adopt says what at one time I thought the floor manager of the bill, the Senator from Minnesota, said. It says that the agreements are simply a statement of present intent and may not be construed as limiting the freedom of the action of the United States in pursuing its national interests.

If this amendment is adopted, Mr. President, I will very happily vote for the resolution itself, which involves the sending of the technicians. I think the sending of the technicians is probably symbolic only, because I assume that instrumentation would be such it would not be quite necessary to station them there. I am sure the electronics could be worked out, but I understand the symbolism. I understand that it symbolizes the desire of the United States to effectuate peace.

Mr. President, if this amendment is adopted, I would be very pleased to vote for the resolution. But Mr. President, I cannot vote for the resolution when I am absolutely convinced that we have committed ourselves to involve our Armed Forces in at least two situations.

There is one other reason why I believe this amendment might be desirable. Mr. President, put one's self in the position of Egypt whose adversary Israel is now neutralized, who is also guaranteed moneys from the United States. What incentive is there to Egypt to influence her Arab friends for a permanent settlement?

Put one's self in the position of a member of the Parliament in Israel and imagine that one's principal adversary is nullified. Whose country is guaranteed economic and military assistance by the United States and is guaranteed that the United States will under all the circumstances deliver oil. What incentive, Mr. President, is there for that member of the Parliament of Israel to make a settlement of the very difficult Palestinian issue, the very difficult issue of Jerusalem, and the very difficult issue of the Golan Heights?

I submit, Mr. President, that there would be very little incentive. As a matter of fact, there is a disincentive for any further forward movement if the resolution in its present form is adopted. But I would submit that if the amendment is adopted, then both nations have the necessary incentive. For that reason I hope that the amendment will be adopted.

I yield the floor.

EXHIBIT 1

DEPARTMENT OF STATE,
Washington, D.C., September 18, 1975.

Hon. THOMAS E. MORGAN,
Chairman, International Relations Committee, Washington, D.C.

DEAR MR. CHAIRMAN: During the hearings on September 11 before the Committee, Under Secretary Sisco was asked whether he regarded the two Memoranda of Agreement between the United States and Israel, which he supplied for the Committee's information on a confidential basis, were properly characterized as "executive agreements." He offered to provide an opinion from the Legal Adviser's Office. This letter is supplied as a result.

It is my opinion that both the two Memoranda of Agreement referred to above are properly described under United States constitutional practice as "executive agreements". As you know, these two documents were initialed in Israel on September 1st. It was understood on both sides that the Memoranda of Agreement would not come into force until signed by representatives of the two governments and that no such signing would take place until after Congress had acted on the Proposal for placing United States technicians in Sinai in connection with the Early Warning System.

It is clear that the Memoranda of Agreement when executed will become international agreements. It is also clear that since they are international agreements they must be reported to the Congress within 60 days after taking effect. At the present time both Memoranda are classified "secret"; it is anticipated that it will be necessary to maintain this classification indefinitely. Accordingly, we expect to transmit the two Memoranda after execution to the House International Relations Committee and the Senate Foreign Relations Committee under an injunction of secrecy as contemplated by the Case Act. (1 U.S.C.A. § 112b).

As you know, we are not asking the Congress for specific approval of these two Memoranda of Agreement. The only document on which specific Congressional approval is sought is the Proposal relating to the placing of American technicians in Sinai. With respect to the two Memoranda of Agreement, the undertakings by the United States fall in the category either of those which the President is already authorized to make under existing legislation or under the traditional powers of the President to make statements of political intention in the conduct of foreign affairs.

Moreover, implementation of any United States undertaking requiring Congressional appropriation or authorization is expressly conditioned upon affirmative Congressional action.

Respectfully submitted,

MONROE LEIGH,
Legal Adviser.

DEPARTMENT OF STATE,
Washington, D.C., September 29, 1975.

Hon. THOMAS E. MORGAN,
Chairman, International Relations Committee, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is written in amplification of my letter to you of September 18. Since reports in the press have, in the Department's view, misconstrued

the purport of that letter, I write now in clarification of it.

As you will recall, question was raised in hearings of the International Relations Committee as to whether the Memoranda of Agreement between the United States and Israel which were initialed in Jerusalem on September 1 should be considered Executive Agreements. The point of the question appears to have been whether the Executive Branch of the Government will submit the two Agreements with Israel to the Congress pursuant to the Case Act.

While many of the provisions of the documents in question do not by any standard rise to the level of international commitments, being no more than statements of intention typical of diplomatic correspondence, there are some provisions by which the United States commits itself to undertakings which, under customary criteria, require that they be reported to the Congress under the Case Act. The Administration accordingly plans to treat these Memoranda of Agreement as a whole as Executive Agreements—and to make a formal transmittal to the Congress at the appropriate time, even though it is plain on the face of the texts that many provisions of the Agreements are not binding upon the United States.

My letter of September 18 endeavored to make this distinction between binding commitments and statements of political intention by pointing out that the undertakings of the United States pursuant to these Agreements "fall in the category either of those which the President is already authorized to make under existing legislation or under the traditional powers of the President to make statements of political intention in the conduct of foreign affairs." My letter added that: "Moreover, implementation of any United States undertaking requiring Congressional appropriation or authorization is expressly conditioned upon affirmative Congressional action." In other words, Congressional appropriation and authorization is in no way preempted by these Agreements.

It should be noted that an article in The Washington Post of September 26 is misleading in suggesting that the Memoranda of Agreement are an integral part of the Sinai Agreement Between Egypt and Israel. The U.S.-Israeli Memoranda of Agreement are legally distinct from and not an integral part of the Agreement between Egypt and Israel. As I stated in my letter of September 18, the Memoranda of Agreement will not come into force until signed by representatives of the United States and Israel, and this signing will not take place until after Congress has approved the proposal respecting United States technicians. This earlier statement merely described the schedule for signing.

Since the Memoranda of Agreement are classified, they were transmitted to the Chairman of the House International Relations Committee and the Senate Foreign Relations Committee on a classified basis for the interim use of the Committees. When these Agreements have been brought into force by signature, the Administration will, in accordance with the provisions of the Case Act, make a formal transmission to the Congress within the sixty-day period provided in that Act.

Sincerely,

MONROE LEIGH,
Legal Adviser.

Mr. BIDEN. Mr. President, as has been mentioned, the Senator from Colorado, the Senator from Illinois, the Senator from Iowa, and I all share the same reservations regarding this so-called early warning system resolution before us tonight.

I think some of us, at least I will speak for myself, I would be able to see my way clear to vote for this resolution if, in fact, we could amend it along the lines that the administration says it intends it to be.

I would like to, if I can, point out that our amendment does nothing more than the administration says it, in fact, wants done.

I would like to read the amendment. It says:

Any agreement entered into, understanding arrived at, or assurance made by any United States official with respect to any foreign country in connection with the "Basic Agreement" signed on September 4, 1975, by the Government of the Arab Republic of Egypt and the Government of Israel; (1) is simply a statement of the present intentions of the executive branch.

Time and again we were told here, time and again we have been told in committee, that that is all that the administration meant they have to be. They did not find them binding assurances, they did not intend to bind the U.S. Congress and, in fact, what they are attempting to do is set out what the present posture of the administration is with regard to commitments down the road to the State of Israel and to Egypt.

In the open, public hearings with Secretary Kissinger testifying, he was asked whether or not he could accept modifying language of this nature which had been suggested by one of his former colleagues, a professor at Harvard University regarding the Sinai agreement.

The language that Professor Fisher suggested was something along the lines that we, in fact, have come up with, with the same intent; that what we do is in fact to be assured that the President is not attempting to lock the U.S. Congress and/or lock future administrations into commitments which we are not prepared at this moment to make without there being a different forum in which to discuss them.

In response to questions by Senator PELL, Dr. Kissinger was commenting on the limiting language offered by Professor Fisher. He was asked by Senator PELL whether or not he could accept the language of Professor Fisher, which was of the same intent as ours.

He went on to say that he could accept that language because it was only the present intention that the administration intended these agreements to state, and nothing more than that.

Professor Fisher's language said:

Provided, all assurances, commitments and undertakings made to one of the parties on behalf of the United States in connection with the Sinai agreement but embodied in documents not submitted to the Congress for its approval shall be construed by the United States as good faith statements of intention rather than as binding commitments.

Senator PELL asked Secretary Kissinger whether or not he could, in fact, accept this type of language. Secretary Kissinger said:

Secretary KISSINGER. Well, Mr. Fisher let me glance at the paper while I was waiting to testify but I do not have it here.

Senator PELL. By coincidence I have an extra copy.

Secretary KISSINGER. I had to meet my old colleague before the committee.

Senator PELL. I think in light of your testimony he may take out the middle phrase.

Secretary KISSINGER. Senator Pell, I think we could accept the second, as I have already commented.

The second is the "provided" that I read, "provided that all assurances, commitments, undertakings," and so on.

Secretary KISSINGER. I have already commented on the first provisions of this amendment limited to 3 years. The second provision we could accept, which specifically defines the nature of the obligation.

Let me read that again.

The second provision we could accept, which specifically defines the nature of the obligation.

That provision he is referring to is, and I will read that again.

Provided, all assurances, commitments and undertakings made to one of the parties on behalf of the United States in connection with the Sinai Agreement but embodied in documents not submitted to the Congress for its approval shall be construed by the United States as good faith statements of intention rather than as binding commitments.

The amendment which my colleagues and I have introduced is essentially the same thing.

We say, instead of all of that language, on line 7 of our amendment, page 1,

(1) is simply a statement of present intentions of the Executive Branch.

We go on to say,

(2) It not binding under domestic or international law.

And then we say,

(3) May not be construed as limiting the freedom of the United States in pursuing its national interest in the Middle East.

The reason we laid it out that way was to make it crystal clear to our colleagues what we were talking about, and to put in paragraph form, in outline form, almost, the essence of what Professor Fisher and former Secretary Warnke suggested was a necessary limitation in order to insure that by voting out this resolution we were not, in fact, giving the Executive the power to make binding commitments of the nature and to the extent that a future Executive may want to as set out in the 16 points in the Israeli-American Agreement and the three points, or so, in the Egyptian-American agreements.

I should point out we have been harping on and talking to the Israel agreement most of the day. Well, there is a memorandum of accord with Egypt, also. That memorandum of accord with Egypt has some significant implications. The first which we have seen is a request, a significant request, for somewhere over a half billion dollars in aid. There is talk that there has been a commitment made, which has been denied by the administration, that we have committed to give Egypt military aid. It is suggested that we will, in fact, give to Egypt at least economic aid, and it is acknowledged that they will come with a "shopping list" early on, the beginning of next year at the latest, for military hardware.

The reason I point that up is that unless we adopt language that is contained in this amendment, or something very, very close to that language, making it crystal clear that what is contained in the memorandum of agreement with those two countries are nothing more than a good faith intentions—today—on the part of this administration to carry out the provisions of those agreements, unless we do that, we, I firmly believe, give to those agreements a force and effect which, in fact, the executive has no right to give.

As I said time and again, some of us believe that provisions in this agreement, without it being strictly limited, have the effect of treaty language.

There are others of us who have said that we, in fact, think that the Executive has overstepped his bounds if he attempts to put these into effect without congressional acquiescence. Unfortunately, if, in fact, we do not limit the language this way today, I am afraid we, at least by implication, will have given that acquiescence.

Again, we go back to the basic question which, unfortunately, I am getting tired of repeating. The same people are here in the Chamber who have heard it again and again. No one else is here but at least it will be in the record at this point in the debate. Once we vote into effect this agreement, the 200 technicians, we put into effect the 4 classified documents. The only way I see that we are able to protect ourselves that they not mean more than they, in fact, are intended to mean is if we amend the present resolution to see to it that they are read as only a good faith intention on the part of the Executive and in no way bind the Congress, morally or otherwise, to operate in a way that they believe is different or inconsistent with those provisions in an effort to pursue its, the United States', national interests in the Middle East.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CLARK. Mr. President, I yield myself such time as I may need from my own time.

This amendment, of course, does not deal with the question of the 200 technicians. Rather, this amendment deals with the status of the related U.S. agreements, assurances, and understandings with Egypt and Israel.

The administration contends that these are separate issues. In fact, they are integrally related. The disengagement accord and the secret agreements were obviously negotiated together. They were sent up to the Committee on Foreign Relations together. To argue that there is no relationship between the two simply cannot stand. They are interdependent.

Israel and Egypt would not have signed the accords without the related agreements. The United States would not have made the agreements without Egypt and Israel signing the accords. An even more direct relationship stems from the fact that most of the U.S. commitments to Israel contained in the two memoranda of agreement have only been initialed, and that they will not be signed until Congress approves of the technicians.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter from the State Department legal adviser, Monroe Leigh, dated September 18, 1975, to the chairman of the International Relations Committee of the House of Representatives.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, D.C., September 18, 1975.

Hon. THOMAS E. MORGAN,
Chairman, International Relations Committee, House of Representatives.

DEAR MR. CHAIRMAN: During the hearings on September 11 before the Committee, Under Secretary Sisco was asked whether he regarded the two Memoranda of Agreement between the United States and Israel, which he supplied for the Committee's information on a confidential basis, were properly characterized as "executive agreements." He offered to provide an opinion from the Legal Adviser's Office. This letter is supplied as a result.

It is my opinion that both the two Memoranda of Agreement referred to above are properly described under United States constitutional practice as "executive agreements". As you know, these two documents were initialed in Israel on September 1st. It was understood on both sides that the Memoranda of Agreement would not come into force until signed by representatives of the two governments and that no such signing would take place until after Congress had acted on the Proposal for placing United States technicians in Sinai in connection with the Early Warning System.

It is clear that the Memoranda of Agreement when executed will become international agreements. It is also clear that since they are international agreements they must be reported to the Congress within 60 days after taking effect. At the present time both Memoranda are classified "secret"; it is anticipated that it will be necessary to maintain this classification indefinitely. Accordingly, we expect to transmit the two Memoranda after execution to the House International Relations Committee and the Senate Foreign Relations Committee under an injunction of secrecy as contemplated by the Case Act. (1 U.S.C.A. § 112b).

As you know, we are not asking the Congress for specific approval of these two Memoranda of Agreement. The only document on which specific Congressional approval is sought is the Proposal relating to the placing of American technicians in Sinai. With respect to the two Memoranda of Agreement, the undertakings by the United States fall in the category either of those which the President is already authorized to make under existing legislation or under the traditional powers of the President to make statements of political intention in the conduct of foreign affairs.

Moreover, implementation of any United States undertaking requiring Congressional appropriation or authorization is expressly conditioned upon affirmative Congressional action.

Respectfully submitted,

MONROE LEIGH,
Legal Adviser.

Mr. CLARK. That letter sets out very clearly that one triggers the other, that the congressional approval of the 200 technicians has the effect of causing the signature of the agreements themselves. In other words, passage of Senate Joint Resolution 138 will directly trigger the signing of these agreements with Israel, agreements the administration contends make binding commitments to Israel.

The House joint resolution and the joint resolution now before us state, in section 5, that by passing this resolution we are not approving the related agreement. Let me read section 5:

SEC. 5. The authority contained in this joint resolution to implement the "United States Proposal for the Early Warning System in Sinai" does not signify approval of the Congress of any other agreement, understanding, or commitment made by the executive branch.

The Senators who offer the amendment that is pending now, I think, have no quarrel with section 5. It is just that we do not feel that it goes far enough. That section simply makes Congress neutral on these agreements—these agreements which, I think again, have been very clearly identified as executive agreements. Certainly in the opinion of the legal adviser to the Secretary of State they are referred to as executive agreements. I ask Senators again to refer to the letter which just has been made a part of the record, where they are so identified.

We also know that the Secretary of State has indicated that these agreements will be sent to the Committee on Foreign Relations under the Case Act, as is required for such executive agreements. We know that Congress will not be asked to pass on them, but that we will receive them simply as a report.

Furthermore, we know that in international law there is no distinction between treaties and executive agreements, but that they are equally binding.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a memorandum which includes several citations in evidence of that fact, which has been drafted for me by the Office of the Legislative Counsel of the Senate.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM OF LAW

STANDING OF TREATIES AND EXECUTIVE AGREEMENTS UNDER INTERNATIONAL LAW

It is undisputed that under international law a treaty and an executive agreement are of equal force and effect.

The Department of State has itself recognized that each is equally binding and obligatory. In a letter to Secretary of Defense Johnson on January 17, 1950, Under Secretary of State Webb stated as follows:

"In international law, . . . treaties and executive agreements both constitute equally binding obligations on the Nation. The binding effect of international law takes place as soon as the State has properly consented to the obligation and does not depend upon the form of the particular undertaking. MS. Department of State, file 811 F.06/1–1750, quoted in 14 Whiteman, *Digest of International Law*, § 22 at 212."

All available evidence indicates that the conclusion of the Department of State is beyond challenge.

The 1969 Vienna Convention on the law of

treaties [1] defines the term "treaty" to include executive agreements and makes no distinction between the two:

Mr. CLARK. So, while we are not approving these agreements in the joint resolution that is before us, our action in approving the technicians will result directly in their being signed as formal international agreements. Yet neither we nor the American people really know how the agreements will be interpreted. We have had every conceivable interpretation of them here today. Some say they mean military; others say they could not possibly mean military. Others say they mean many other things. The language, we all agree, is extremely vague and imprecise, and can be interpreted in many different ways.

1. For the purposes of the present Convention:

(a) "Treaty" means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation;

* * * * *

2. The provisions of paragraph 1 regarding the use of terms in the present Convention are without prejudice to the use of those terms or to the meanings which may be given to them in the internal law of any State. U.N. Conference on the Law of Treaties, Doc. A/CONF. 39/27, May 23, 1969, Art. 2.

The International Law Commission commented on this definition of treaty as follows:

. . . the juridical differences, in so far as they really exist at all, between formal treaties and treaties in simplified form lie almost exclusively in the method of conclusion and entry into force. The law relating to such matters as validity, operation and effect, execution and enforcement, interpretation, and termination, applies to all classes of international agreements . . . the use of the term "treaty" as a generic term embracing all kinds of international agreements in written form is accepted by the majority of jurists. II Yearbook of the International Law Commission 1966, pp. 188, 190.

The Harvard Research in International Law concluded as follows: "The distinction between so called 'executive agreements' and 'treaties' is purely a constitutional one and has no international significance. . . ." Harvard Research in International Law, Draft Convention on the Law of Treaties, Comment, 29 Am. J. Int'l L. Supp. (1935) 653, 697.

Conclusion. Accordingly, it is the opinion of this Office that the Department of State is undoubtedly correct in its view that "treaties and executive agreements both constitute equally binding obligations on the Nation".

Respectfully submitted,

MICHAEL J. GLENNON,
Assistant Counsel.

[1] The Convention is not in effect with respect to the United States, but it is strong evidence of the current state of international law and has been cited by the Department of State as such. See, eg., "United States says it is now free to breach Viet Nam pact", New York Times, January 15, 1975, in which it is reported that Department spokesmen cite the Vienna Convention regarding the effect of a material breach of an international agreement of the obligations of other parties.

Let me simply cite two or three examples. I think one could almost pick at random any of these agreements to have some understanding of the difficulty of trying to interpret what they may mean to this President, to the Prime Minister of Israel, to the President of Egypt, or to their successors.

Point No. 3, for example, in the major memorandum of agreement with Israel, commits us to supply oil to Israel, even in the event of an embargo.

Suppose an embargo is touched off by a preemptive strike by Israel. Are we still committed to provide Israel with oil? I think it is clear that we are. No exemption is made as to preemptive strikes. I asked the Secretary of State that specific point, and each Member can judge for himself the meaning of that answer. I interpret his answer very clearly to mean yes, under the terms of the agreement, that even if there is a preemptive strike it could be interpreted that we would have to fulfill that agreement.

He went on to state that he did not think we would. But the language is the language, and this Secretary of State and this President may not be in their present positions in 2 years, 3 years, 4 years, or 5 years; and there is no time limitation on these memorandum agreements.

Let us look at point No. 7. It deals with possible remedial action by the United States in the event of an Egyptian violation of the disengagement accords. Could that mean military action? The Secretary has testified no. But we have had several expert witnesses who have come before our committee, who have also served in government in very high positions, who say yes. Obviously, it is open to interpretation. Who is going to interpret it? This President, this Secretary of State now? Others later, perhaps?

I do not subscribe to the idea that every executive agreement that this country has made—we have some 4,000 of them in effect now—is going to die at the end of this administration, and that none of them, therefore, have any effect beyond that point. That suggestion has been made here earlier this afternoon. I do not think the administration would agree to that. I do not think any constitutional lawyer would agree to it, that somehow executive agreements end and are no longer enforced when an administration ends. If so, we do not have very many in effect. We would have only those in effect which have been agreed to under the Ford administration, in the last 14 months.

Obviously, they are in effect.

There is one other point that I cite.

Paragraph 10 states that in the event of a great power threat to Israel the United States will consult with Israel with respect to what support, diplomatic or otherwise, it can lend.

What does this "otherwise" mean?

Obviously, it does not mean diplomatic. It means otherwise. The Secretary of State, in my judgment, has clearly stated that otherwise could mean military action, although he says there is no commitment to take such action.

Is there not as much a commitment here as in most of our mutual defense treaties? I believe there is.

I believe that it would qualify as a treaty. I think that the testimony which we received from expert witnesses bears that out.

Again, as to point 14, support, the whole issue of support, that was discussed earlier with the Senator from Colorado, as to whether in this point we will support Israel if the Straits are cut off. There is no qualification, no qualification of any kind. It does not say to consult. It says to support.

Again, I think it is clear that this would qualify under the criteria of a treaty.

Yet, we are saying here that we do not want to consider it as a treaty, even though it will have the force in international law of a treaty provision.

The Secretary of State, when this was pointed out, that in one section of paragraph 14 the words "diplomatic support" are used, in another section the "diplomatic" is left out and we are simply left with "support," said:

That was because we were writing it late at night. We inadvertently left that out.

I submit that the next Secretary of State, President, Prime Minister of Israel, or President of Egypt may not be aware of how late at night this document was written. We are going to have to live by the words that are in that document, in that executive agreement.

We cannot simply say that certain words may have been left out for certain purposes. The fact is that the words must speak for themselves, not only for this administration, but for future administrations.

The real danger is that the Secretary of State and the President's interpretations somehow are interpreted by this body to mean that they only apply to this President. That impression has been given over and over and over again; that somehow these are just intentions, they have no standing beyond that.

Yet the documents themselves are supposed to contain legally binding commitments, according to the memorandum that the Secretary of State has provided us.

What is to prevent future Presidents from interpreting these agreements as binding commitments on the United States to take military action? Nothing, unless we are prepared to exclude that possibility.

What is to say that the leaders of Egypt or Israel now or in the future might not construe these commitments to mean much more than the present administration says they mean?

We had an interesting exchange from the former Under Secretary of State, George Ball, on this very point:

Mr. BALL. Well, with all due respect I care very much how Jerusalem interprets this. I care very much how Cairo interprets this. They are going to base their action and conduct in the future on how they interpret it. If they interpret it one way and assume these are binding commitments we have put them in a very, very false position. If the Congress does not think they are binding commitments, I think that this comes back to the central point I was making a while ago—am-

biguity is a very, very dangerous element in international exchange and I think it is extremely important that we make it clear to these other capitals what we mean or otherwise we are going to head into greatest international misunderstanding.

Mr. President, this amendment gives us the opportunity to approve or disapprove of these executive agreements from the Congressional point of view. We are not going to have any other opportunity. I felt very strongly, as many of the witnesses did, that we ought to insist that these be sent up as treaties and considered as treaties. That clearly is not going to happen. That leaves us with only one alternative, and that is to specify these agreements do not contain binding commitments.

I read into the record and I will not do so again, the number, and the trend toward executive agreements over the years, the fact that in 1930 we had only nine executive agreements, and that by now we have 4,359. I have read into the record earlier today the kinds of treaties that are being sent up by recent administrations.

It is a fact that we are asked to advise and consent on regulations, agreements, containers, shrimp, and coffee, but not on the most basic commitments that this country makes.

This then is our opportunity to state our position that indeed these agreements are from our point of view only executive intentions.

If we do not adopt this amendment, we are left simply with the language in section 5, which takes a neutral position, which says that Congress takes a neutral position on how binding these agreements really are.

Mr. President, I ask unanimous consent that the testimony given before the Committee on Foreign Relations by Senator EAGLETON be printed in the RECORD at this point.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

THE MIDDLE EAST AGREEMENT

Mr. Chairman, I very much appreciate this opportunity to testify before the Committee on a matter involving an important diplomatic initiative. I want first to commend the Committee for its work on the Middle East Agreement. Your willingness to pursue the constitutional prerogatives of the Senate has enhanced the public's understanding of this complex agreement.

As has been widely reported, the Middle East Agreement has gained wide acceptance in Congress. I count myself among those who strongly support this initiative. I believe that the alternative to this agreement might have been war. There is now the opportunity for cooperation between adversaries in the Middle East which could build the confidence necessary to bring about a final peace.

But perhaps because of the general support this agreement has received, the Committee's refusal to rush to maintain the Administration's timetable has appeared paradoxical and therefore confusing to the public. I have even heard the charge that the Committee has engaged in "irrelevancies" in emphasizing legal questions. Certainly, the Administration has hardly concealed its exasperation over the process.

Mr. Chairman, nothing could be more relevant to the constitutional duty of the Senate than to determine the status of international agreements which the Executive wishes to consummate without the advice and consent of this body. And nothing could be more relevant to the very delicate matter before us than to determine the nature and the extent of the commitments undertaken by the Executive and contained in the four so-called "secret" agreements made public by this Committee last week.

I would like to comment today on the first of these relevancies—the status of international agreements consummated in the absence of congressional approval. As for the second, I have not had the opportunity to hear the explanatory testimony of Administration witnesses, so I will await the report of the Committee before making specific judgments as to the nature and extent of some of the more ambiguous articles contained in these agreements.

Mr. Chairman, the commendable actions of this Committee over the past three weeks have, as I have suggested, engendered the wildest speculation. I have seen every stripe of punditry—from the assertion that members of the Committee are waging a personal vendetta against Secretary Kissinger to the conspiratorial notion that friends of Israel were trying to kill the agreement.

Such speculation, however erroneous, is not surprising. For the Senate has not been a paragon of constancy in the exercise of its constitutional prerogatives.

With respect to the issue before us—the unilateral consummation of international agreements by the President—we have been dormant, with minor exceptions, since we enacted the Case Act three years ago. That legislation, which is the product of the dedicated work of the Senator from New Jersey, was a reaction to the most blatant abuses of the Senate's treaty power. Such executive agreements as those involving the deployment of forces in Spain, the Azores and Bahrain, consummated at the height of concern over our involvement in Vietnam, inspired Congress to take action to curb this activity.

What came out of that controversial period was simply the first step in regaining congressional control over national commitments. Senator Case—and indeed the entire Senate—wanted to give Congress the power to veto executive agreements within 60 days, but the House did not consent. The compromise, the Case Act, simply requires the submission of executive agreements within 60 days after they take effect.

While this procedure has had a positive effect, it has not begun to address the central problem—the executive's usurpation of the Senate's treaty power. I am hopeful that one outgrowth of the controversy over the Middle East Agreement will be a renewed effort to provide Congress with the mechanism necessary to reassert our legitimate powers in this area. Without such a mechanism our actions will continue to appear arbitrary and even capricious.

As we consider this particular agreement, we must be sensitive to the political commitments undertaken by Egypt and Israel at the behest of our government. In particular, we must expeditiously consider the proposal to station American technicians in the Sinai since favorable action on this item will initiate the disengagement.

Obviously, we cannot afford to engage in a prolonged constitutional struggle. But it would be equally unfair to Israel and/or Egypt to do nothing to clarify the legal status of the agreements they will consumate with our government. As the Office of the Legislative Counsel has pointed out, at least one of these agreements may be without force and effect without the advice and consent of the Senate.

The question has been raised as to whether an executive agreement which commits the economic, diplomatic and military resources of the United States is valid. It seems clear that for the sake of the foreign governments involved, we must find an answer to that question. Yet in doing so we must guard against either inadvertently acknowledging or acquiescing in an Executive power to consumate international agreements which does not exist.

Mr. Chairman, this Committee has heard numerous constitutional experts on the subject of executive agreements and you have received expert advice with respect to the matter at hand. I see no reason, therefore, to exhaust your patience with a long recitation of the constitutional precepts involved.

Suffice it to say that the Constitution specifically acknowledges only one form of international agreement, the treaty. I am not prepared to argue that executive agreements are ipso facto invalid under our Constitution. I believe that such agreements are valid when entered into pursuant to specific treaties or statutes.

But I do dispute the claim that the Executive has an "inherent power" to commit the nation in any substantial way in the absence of congressional approval. This is exactly the contention rejected by Alexander Hamilton when he wrote:

"This history of human conduct does not warrant that exalted opinion of human virtue which would make it wise in a nation to commit interests of so delicate and momentous a kind, as those which concern its intercourse with the rest of the world, to the sole disposal of a magistrate created and circumstanced as would be President of United States."

Mr. Chairman, a number of tests have been devised to determine whether a particular agreement should be submitted for ratification by the Senate as a treaty. One standard, called the "Circular 175 Procedure," has been used by the State Department for a number of years. Yet, at least one criterion used to determine whether an agreement should be submitted seems to have been ignored in this instance. I refer to Paragraph A under the Circular 175 Procedure which states that the Executive decisionmaker must consider "the extent to which the agreement involves commitments or risks affecting the nation as a whole."

It is by now obvious that good faith and common sense do not prevail among those who are deciding these matters. Recognizing this, Congress must act to protect its prerogatives. Failure to do so will only contribute to a chaotic legal situation. Foreign governments themselves may begin to doubt the validity of agreements they have entered into with the Executive Branch of our government.

Interestingly, one of the first of the so-called "executive agreements" did result in uncertainty. The way President Monroe resolved that problem is particularly instructive.

In 1817, the United States and Great Britain agreed, by an exchange of notes between Acting Secretary of State Rush and the British Minister in Washington, to limit naval forces on the Great Lakes. A year later, due mainly to concern expressed by the British that succeeding Presidents might not honor the agreement, President Monroe submitted it to the Senate for ratification.

Mr. Chairman, in 1969 the Senate passed a "National Commitments Resolution" stating:

"That it is the sense of the Senate that a national commitment by the United States to a foreign power necessarily and exclusively results from affirmative action taken by the executive and legislative branches of the United States Government through means of a treaty, convention, or other legislative instrumentality specifically intended to give effect to such a commitment."

If that resolution has any meaning, then

we must apply it to these agreements by either endorsing or rejecting at least those sections which clearly constitute a national commitment. If we fail to do so, Israel or Egypt, like Great Britain in 1817, would be justifiably apprehensive over whether future Presidents will be bound by Secretary Kissinger's agreements.

Mr. Chairman, in proceeding toward the possible consideration of one or more of these agreements, either as a treaty or by statutory authorization, we must obviously consider the impact on the countries involved. I do not believe, for example, that either Egypt or Israel was aware during the negotiations that its agreement with the United States might not be valid under international law due to the constitutional questions I have raised. In addition, the final signing of the Egyptian-Israeli accord is being held up pending Congress' approval of the proposal to introduce 200 American technicians into the Sinai.

With these considerations in mind, I would recommend, as a supporter of the Middle East Agreement, that the Committee report out a resolution approving the technicians. This resolution should be carefully drawn along the lines of the Resolution reported by the House Committee on International Relations, to assure that it cannot be construed as approving of or acquiescing in the commitments contained in the memoranda of agreement.

In a totally separate action I would then recommend that the Committee report a Sense of the Senate Resolution requesting the President to approach Egypt and Israel for the purpose of ascertaining whether those nations would object to the submission to the Senate of any portion of their agreement with the United States which constitutes a commitment for ratification as a treaty. As part of this resolution, I would request a report by the President to this Committee within 30 days providing the results of his negotiations.

The Committee would, of course, take the President's report into consideration in deciding whether or in what form it would recommend that Congress consider the commitment in question. It is conceivable, of course, that the foreign nation involved would be willing to let the agreement stand without any congressional action taken, thereby taking its chances as to its validity during another American Administration.

Whatever the choice, we must no longer acquiesce in a procedure which nullifies the constitutional powers of this body. It is clearly time to put the Executive Branch and the governments of other nations on notice: to wit, that executive agreements which entail commitments by the United States may be no more enduring than the current occupant of the White House and no more valid than the President's personal ability to fulfill them.

Mr. CLARK. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CASE. Mr. President, I yield myself such time as I might take.

I wonder if I could inquire of our colleagues what their general views are as to the remaining time on the amendment. How much more time do they think they would like to take? I am prepared to take 2 or 3 minutes and then move at the proper time, if that is the proper time.

Mr. CLARK. It is agreeable to me.

Mr. BIDEN. I take 2 or 3 minutes to sum up and that will be the extent.

Mr. CASE. Does the Senator wish to do it now?

Mr. BIDEN. I defer to the Senator.

Mr. CASE. I am happy to defer to our colleague.

Mr. BIDEN. Go ahead.

Mr. CASE. Mr. President, I think we all understand the position pretty well. The resolution before us does contain in section 5 an expressed provision that the approval of this resolution does not constitute approval of any other agreement, understanding, or commitment made by the executive branch. To me that satisfies the needs of the situation.

The amendment offered by Mr. BIDEN for himself and Mr. CLARK, Mr. HASKELL, and Mr. STEVENSON, now pending before us, goes very considerably beyond that, of course.

If this resolution is enacted and signed by the President as being a joint resolution, it would become law, and override everything else with respect to the agreement made by this Government as to the assurances or the undertakings given by the Government. It would prevent any of them from having binding effect, whether or not in the absence of such an amendment as this it would have binding effect. It would state, further, that it is simply a statement of present intentions and is not binding under domestic or international law.

Then it goes further, in a quite gratuitous way, to say that it cannot be construed as limiting the freedom of the United States to pursue its national interest in the Middle East.

If I thought this was necessary in order to prevent aggressive action on the part of the administration or any administration in the Middle East, without approval of Congress under the War Powers Act, under the Constitution, I certainly would be willing to enlarge the disclaimer that the present resolution contains. I do not believe that.

Quite extraordinary consideration that has been given by our Committee on Foreign Relations and by the Senate when I say "extraordinary" I do not in any sense mean improper. I believe it is altogether right and proper. As my colleagues know, I had some considerable part in insisting that all the documents, all the undertakings and assurances, on which the parties—Israel and Egypt—rely in making their agreement be made available to the committee. I think that so far as this is humanly possible, it has been done. Having looked at the whole gamut of assurances and undertakings, I, for one, am prepared to adopt the resolution, letting those assurances and undertakings stand for what they are, without attempting any kind of gloss upon them, without attempting to eviscerate them, as this amendment would do—at least, to the extent that they have an effect in international law.

This would be wrong. These countries, Israel and Egypt, have made considerable sacrifices and have taken considerable risks in reliance upon our assurances and undertakings, and to say that none of them is of any effect would be unfair.

Beyond that, it would be a very dangerous thing, because it would have the effect of giving the irresponsible elements, the more radical elements, in each of those countries the chance to say to the moderate elements now in control of those countries, "You fools, to rely upon the assurances of the United States in taking any risk for peace."

I am not prepared to do that. I think it would be wrong for us to do that, when we have said, as we do say in our own resolution, in section 5, that our action approving the proposal of the United States for the early-warning system and the technicians does not signify approval by Congress of any other agreement, understanding, or commitment made by the executive branch.

I believe we have done exactly what we should do. We have negated any effect as approval, if congressional approval is required, to make any of those assurances, undertakings, or commitments binding when they would not be without our approval. We have taken care of that, but we do not in any way alter or remove such effect as they may have in the absence of that approval, and I think we should not.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. CASE. I yield.

Mr. BIDEN. The Senator pointed out that the effect of our adopting this amendment might very well be to put the moderate elements in Egypt and Israel in a bit of jeopardy, put themselves in the position of having been foolish to rely upon or to make an agreement or to make concessions for only good faith assurances. Then the Senator pointed out that we in Congress are saying that we are not bound by anything other than the 200 technicians.

The Senator read paragraph 5—and he read it accurately—of the existing resolution, which says that we in Congress are not bound. Does it not seem as though we are saying, on the one hand, that we do not want to take away the right of Israel and Egypt to rely on something that we are saying we are not prepared to be bound to? I am not sure what that gets us.

Mr. CASE. I am sure I understand the thought that the Senator has.

I think that both Israel and Egypt are required to take note of the constitutional system of the United States and its laws, its public laws. Those include a requirement in the Constitution of a declaration of war by Congress before war may be engaged in by the United States and, for matters less than all-out war, the procedures required and stipulated in the War Powers Act. They are not entitled to assume that the President of the United States can take this country into war, except in those circumstances.

I do not hesitate for one moment to say that, having gone through this whole exercise and laying these things out and explaining to ourselves and to the world the limits of the words used by the administration in these various undertakings and assurances under our constitutional system, I think we have done a useful service. But I do not think we should take away that vitality from such parts of these assurances as have vitality in themselves.

The amendment of the Senator from Delaware says that this is simply a statement of the present intentions of the executive branch. I think that in some cases it is more than that. But we go beyond that, and we say that no agreement, understanding, or assurance made by any U.S. official is binding under domestic or international law. That means that they are negated entirely, rendered nugatory.

I do not believe that is the right way to do this business. If I were the President and this resolution were submitted to me with this in it, I would say that I cannot sign it, whether or not the agreement between Israel and Egypt went down the drain by reason of the failure of my putting my name on there. That is because it would be an action entirely destructive of the various statements and assurances and undertakings that were made in the diplomatic intercourse, and we must preserve the executive branch's right to undertake that within its proper limits. I believe the proper limits are established by the Constitution and by law, and we should go no further than we propose here.

Mr. BIDEN. Mr. President, will the Senator yield for another question?

Mr. CASE. I yield.

Mr. BIDEN. Perhaps the Senator can explain, then, why Dr. Kissinger, in open hearing, stated that he could accept Professor Fisher's language—and I will read it:

That all assurances, commitments, and undertakings made to one of the parties on behalf of the United States in connection with the Sinai agreement, but embodied in documents not submitted to the Congress—

Meaning the four documents we are talking about—

for its approval, shall be construed by the United States as good faith statements of intention rather than binding commitments.

Dr. Kissinger indicated that he could accept that type of language, that provision. I wonder why he said that, if unless he did not mean it.

Mr. CASE. I want to be sure that I understand precisely that exchange. In the absence of having adverted to it at the time it occurred, I do not want to comment on that.

Mr. BIDEN. May I read this specific language?

Mr. CASE. Perhaps my colleague from New York (Mr. JAVITS) was there when that assurance was given and was conscious of it, or my colleague (Mr. GRIFFIN) was there at that time and was conscious of it. We are talking, gentlemen, about some response Secretary Kissinger may have made when he was presented with the substance of this proposed amendment at the hearing.

Mr. BIDEN. If I may be permitted, may I read the exchange and then give the explanation?

Mr. CASE. Surely.

Mr. BIDEN. On page 285 of the hearings held before the Committee on Foreign Relations on Tuesday, October 7, Senator PELL is speaking. Not all this applies, but I shall read from the beginning:

Senator PELL. That is kind of a backhanded way of doing it, I think.

Then the other limitation that could be included is a limitation along the lines again that Mr. Warnke yesterday—and Mr. Fisher had in his proposed statement—specifically saying that all these agreements that are submitted, that are separate from the Sinai, the 200 technicians, our good faith in the main, and would you have any objection to that? Are you familiar with the Warnke proposal?

Secretary KISSINGER. Well, Mr. Fisher let me glance at a paper while I was waiting to testify but I do not have it here. If I could be——

Senator PELL. By coincidence he has an extra copy.

Secretary KISSINGER. I have to meet my old colleagues before the committee.

Apparently he and Fisher were colleagues.

Senator PELL. I think in the light of your testimony he may take out the middle phrase.

Secretary KISSINGER. Senator Pell, I think we could accept the second——

That is the provision I read—

I have already commented.

Senator PELL. Your testimony is very popular, Mr. Secretary.

That is with relation to newsmen diving over the table to get the testimony.

Secretary KISSINGER. I have already commented on the first provision——

If I may interrupt, the provision reads:

Provided that this authorization shall expire at the end of 3 years unless extended by the Congress.

In response to that, Secretary Kissinger said:

I have already commented on the first provision of this amendment limiting it to 3 years. The second provision we could accept which specifically defines the nature of the obligation.

Senator PELL. Right. I thank you. And I thank you very much indeed.

Mr. PELL. Will the Senator yield?

Mr. BIDEN. Yes, I yield to the Senator from Rhode Island.

Mr. PELL. I well recall that exchange and well recall the Secretary's stating his willingness to live with the provisions of that particular paragraph of this amendment. I also believe that those provisions are clearly parallel to the provisions that the Senator from Delaware has introduced. While I would prefer to see the excellent language of Dr. Fisher, I also think the language of the Senator from Delaware is excellent. I feel that it meets the objectives of many Members of the Senate. Moreover, in view of the fact of the Secretary's words, I do not believe it would be an embarrassment to him or the United States. I, therefore, intend to support the amendment of the Senator from Delaware.

Mr. BIDEN. If I may follow up on page 335 of this same testimony, Professor Fisher, who is testifying after Dr. Kissinger, in responding to questions by Senator MCGOVERN relating to this area, said:

Yes, Senator McGovern. I did hear that, but I want to indicate to some members of this committee how important it is to get that proviso into the agreement, because in a sense we have heard, although I have not seen the secret analysis, we have heard that there are some of these which are considered binding. The Secretary of State this morning said he would accept the approval of the committee of the 200-man unit, even if it said it was provided that all those were to be treated simply as statements of intention.

Senator MCGOVERN. That is correct. He said that on the public record.

Mr. FISHER. He said that on the record and Mr. Leigh confirmed it except for the time limit paragraph that I had, that that was his understanding, but it is—I want to bring home to the committee how important it is to put in the proviso that your approval of the 200 men is provided that these other statements, whatever they are, are treated as good faith statements of intention and not as binding commitments, because as binding commitments they will seriously handicap the Secretary's own freedom to go forward.

Senator BIDEN. If the Senator will yield on that point, the Secretary did say that he would go along with that type of language, but after that he said that they would be binding anyway, as I understood it, that he said they are binding, they are executive agreements. We don't have the right to limit an executive agreement and they are binding.

Mr. FISHER. Senator Biden, my interpretation of Secretary Kissinger's remarks to the committee, to me before the committee, to you in discussion, is that if you approve the 200-man unit and say we do not approve the rest of the agreement, that they will become in effect as Executive agreements and some of them will be binding in their effect. He did, however, say that if the committee wished to do so, it could grant its approval of the 200-man unit with the proviso that all the other ones be treated as statements of intent.

I shall not read any further, but everyone who listened to the debate at that time—Senator MCGOVERN, Senator PELL, myself, Professor Fisher, and Dr. Kissinger—their understanding was that we could accept this language. I am at a loss now to understand why we cannot accept this language on the floor.

I yield to the Senator from New York.

Mr. JAVITS. Mr. President, the reason we cannot accept this language on the floor is twofold. In the first place, Secretary Kissinger was reacting off the top of his head with respect to a matter which he had given no deliberation to, but just heard. It struck him as substantively backing up his thought that whatever powers the President was exercising were powers which the President had and that, therefore, he could, in good faith, make promises which related to his own authority and his own power. Therefore, in my judgment, as I listened to Dr. Kissinger, he construed this to mean the role of Congress, whether or not the Nation was committed to things which the President had no power to commit the Nation to.

I believe that we should have rejected this language even if offered, because it tends to negate even the powers of the President's offer to study or to consult or to recommend to the Congress. There is no question about his authority to do that. Yet this would tend to negate that and they could look to the negotiating parties, which would be very unfair to our country, as the mediator, as if he really did not mean what he was saying when he said he would either study or negotiate or consult or recommend.

So I believe that this was highly improper. I believe if we adopt it, it will tend to result in this agreement falling apart, because nobody can have any

faith in it if we, ourselves, say, well, it is only a very light promise, it is our present intention, we do not know what we will do tomorrow. As far as the President is concerned, and I again affirm this—I said it before and I will say it again— we have to assume when we vote for this resolution that he will do every single one of the 16 things which are contained in the secret memorandum which we now make public. That includes consult, recommend, deliver oil if he can—he may not have the money, he may not have the means. But everything he said, he will do.

I cannot see how we, as a dignified nation, can then water that down and denigrate it by saying, "Oh, well, this is just really not binding in domestic or international law." It is not, as a matter of fact, because international law is not enforceable and domestic law does not obtain except where he has the power. And he does have the power to say the things that he said.

So, Mr. President, I believe that whatever may have been Secretary Kissinger's assertion off the top of his head, it was off the top of his head and it does not belong and we should reject it. That is being absolutely frank about what was the situation.

Second, Mr. President, the Senator knows and I know that if we let this thing hang fire for the next 2 weeks, it could easily fall apart, and most likely will. That is why the Senate, by a decisive majority, has been turning down everything here which is not considered essential. Therefore, if the Senator construes what the President has done in the memorandum as being within the confines of this amendment, he does not need the amendment. He does not need the amendment.

Mr. BIDEN. Will the Senator repeat that?

Mr. JAVITS. I said if you construe what the President has done respecting these various points in the memorandum to be just a promise or however you wish to describe it, you do not need this amendment. That is the Senator's construction; that is not our construction.

Mr. BIDEN. If the Senator will yield on that point, Mr. President. How the Senator from Delaware construes the amendment does not really carry a whole lot of weight except in Delaware, so I am not sure how I view it has any relevance unless I can get it into the form of the Biden-Clark-Haskell-Stevenson amendment attached to this legislation.

I would like to take issue with one of several things the Senator said. He said the Senator from Delaware knows as well as he does that if we do put this agreement into effect within 2 weeks, it may break down. I do not buy that argument about it breaking down. I do not believe that. We do not have the evidence of that. We have not heard any utterances of that other than from our State Department and, again, I remind the Senator of something that I had nothing to do with, this idea that we must act now because if we do not act now, if we have any amendments that are not in conformity with the House, that we are going to, in fact, be the prime mover in seeing to it that the thing breaks down and we will have war in the Middle East.

I would like to read from the CONGRESSIONAL RECORD and quoting Senator Fulbright—this is August 7, 1964 during debate on the Gulf of Tonkin resolution—in response to Senator NELSON'S having an amendment to be considered. Senator Fulbright said:

> The Senator (Mr. Nelson) put into his amendment a statement of policy that is unobjectionable.
>
> Skipping three lines:
>
> The House Joint Resolution is about to be presented to us. I cannot accept an amendment and go to the conference and thus take responsibility for delaying matters. I do not object to it as a statement of policy. I believe it an accurate reflection of what I believe is the President's policy, judging from his own statement. That does not mean that, as a practical matter, I can accept the amendment. It would delay matters to do so. It would cause confusion and require a conference and present us with all the other difficulties that are involved in this kind of legislative action. I regret that I cannot, even though I do not at all disagree with the amendment as a general statement of policy.

Now, I realize the Senator from New York does not agree with this as a statement of policy, but I wish he and others would leave out the argument and assertion that if we do not act immediately—and I have no hard evidence of the fact that if we do not act immediately—things are going to break down. I wish we would stick to the issue. This is either good on its face or not good on its face, and if it makes sense we should do it whether or not it takes us to a House-Senate conference, and if it is not good on its face then we should reject it.

Now, speaking to the specific merits of this amendment, the Senator from New York is an eloquent spokesman for Dr. Kissinger. He, in fact, has become a tremendous advocate for Dr. Kissinger the entire day here on the floor. We have explained away everything Dr. Kissinger said, so I am not sure that it would make any sense to have him up for a hearing. The Senator from New York makes very, very persuasive arguments as to why Dr. Kissinger should not have said the things he said. He has explained why he should not have sent up the memorandum; he explained why he made a mistake; explained why Dr. Kissinger said this; explained this because had he known better he would not have done it.

Now that he has acted as an apologist for Dr. Kissinger and explained how he did not know what he was doing, I submit maybe he did not know what he was doing when he was drafting these agreements, possibly. They were done late at night. They were done in the heat of shuttle diplomacy, and maybe he made a mistake there, too, off the top of his head.

But now we are going pell-mell to make sure that we accept it, as the Senator points out, and he is the only one who said it, and he is the only one who is blunt enough to point it out, that when we vote on this amendment we vote on the whole ball of wax. We put all the provisions into effect as the President determines them to be effective and to the extent he determines them to be effective.

I think the constant assurances, not just from the language I read from Dr. Kissinger, but I think the Senator from New York, the Senator from Minnesota, the Senator from New Jersey, the eloquent spokesmen for this position, will all admit that for the 6 or so hours we spoke with Secretary Kissinger, for the hours we spoke with Assistant Secretary Sisco, for the hours, I do not know, I guess I would have to ask Pat Holt, the chief of staff of the committee or someone else, to correct me, but I think we probably spent 15 hours with Ford administration spokesmen in one way or the other, public or private, here on this agreement, and consistently they kept trying to tell us, "Don't worry, it is not as binding as you think; it is not as broad as it appears; it is a good faith statement."

Now when Senator CLARK and I ask that you just assure that in the legislation we are told they really did not think about it, they would not have said it had they known.

Well, you know, I wonder how it is going to be interpreted down the road. I wonder how it is going to be interpreted when we are told 3 years from now of some significant action in accordance with the memorandums that have taken effect, and the consequences of the Executive's putting it into effect; I wonder if we are going to be told then, "Had we known what we said back there 3 years ago it would not have been done, we would not have done it. We did not know what we were doing then." Really it has a much broader implication than, in fact, we are told it does.

So, at any rate, I just think it does not do damage to the agreement, but it does put it in perspective. It does, in fact, do it the only way I know Congress can do it, which is to assert Congress prerogative that we do not concede before the fact, before debate on every one of the provisions, that the Executive has this right to put in full force and effect every one of these agreements; and if, in fact, we do not have limiting language of this nature, we are saying the converse. We are conceding that the President has the right by the executive agreement route to make all the commitments that are set out and, as the Senator from New York points out, we must assume that he intends to put them into effect.

So we are back to the same old question, the same basic question: What is the role of this body in this entire agreement?

We have established beyond a question of a doubt that these matters are not separable. We are agreed to that. The opposition has conceded that. Now we are at the point: are we going to say to preserve a little bit of our prerogative, "Mr. President, you can say them, you can go ahead and attempt to do them. But, in fact, we are not willing to give them the full force and effect of a binding executive agreement. We do not concede that at this point in time."

If we do not put in this kind of language, we will have conceded that, in

fact, we will have washed our hands of it and said—you know, I have not heard—talk about language that is solicitous, let me read from the bill in paragraph five. If this is not a hand-washing exercise I do not know what is.

Five as it reads now says:

The authority contained in this joint joint resolution to implement the "United States proposal for the early warning system in the Sinai" does not signify approval of the Congress of any other agreement, understanding or commitment made by the executive branch.

"Mea culpa, mea culpa, mea maxima culpa. We are not doing anything. We wash our hands. We are not a party to it, but you go ahead, Mr. Executive, Mr. President; you make all these binding commitments which bind the United States of America, but we are not binding ourselves."

Talk about a cop-out, that is the cop-out, and I do not see how it ruins these accords.

Nobody whom I have heard, other than members of the committee, no one from the administration, no one from either of the Egyptian and Israel Governments involved, has said it will do irreparable damage, cause this thing to topple and send us, propel us, into war in the Middle East.

We are preserving our rights here. Every person who testified before our committee suggested it was essential that we do this. Even the Secretary of State, in a misguided moment, suggested he could accept it. But we, on the floor, are going to be satisfied with a hand-wringing exercise that we are not responsible; we do not take any part of this. We wash ourselves of blame.

So if the whole thing blows up in our face, we can say, and go back to our constituency and say, "But we said we were not responsible." As suggested by some on the floor, that is a pretty good idea.

I just wish Senators would accept it because I would love to be able to vote for this. I would like to be able to go back to my constituency—but it is being made impossible for me to vote for this without some kind of limiting language.

For those who think I may be going through an exercise, and I do not want the whole thing undone, I am prepared to comment that if this is accepted I will vote for sending the 200. But I want the Congress to exercise its role, as this Senator sees it.

I realize that reasonable men differ, but I am beginning to wonder how we can ignore what, in fact, we are doing here.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CASE. Mr. President, is there anybody who wants to talk on these amendments?

The PRESIDING OFFICER. Is there anyone who wishes to talk on the amendments?

Mr. CLARK. Mr. President, I am prepared to yield my time back, but I would like to take 30 seconds and then I shall finish. I yield myself only that amount of time.

I think, Mr. President and Members of the Senate, that the issue is a very clear one. If Senators do not wish to express themselves on these executive agreements, if they prefer to have these commitments interpreted solely by the administration, they should vote against the amendment which we offer.

If Senators do not wish to participate in restricting the President, or future Presidents, in the power of interpreting these commitments, then they should vote "No."

If on the other hand, Senators feel we should further restrict the President's authority in this regard, to simply say that these agreements are, as our amendment says, simply a statement of present intentions of the executive branch, then Senators should vote for this amendment.

I thank the Chair.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. HUMPHREY. Mr. President, we are prepared to yield back our time, if there is any time here.

Mr. CLARK. I am prepared to yield back.

Mr. HUMPHREY. Mr. President, therefore, I move to table the amendment.

Mr. BIDEN. Before the tabling——

Mr. HUMPHREY. I withhold that.

Mr. BIDEN. I would like to take 1 minute.

Mr. President, when in fact, and if in fact, we vote against this amendment, I think everyone should understand pretty clearly what we are doing. In addition to what Senator CLARK just stated, we are saying that the Executive, the President of the United States, has the right to do every one of the things that are set out in the agreement.

We do not dispute that right and, furthermore, he has the right to interpret them and enforce them as he sees it within the proviso that it has to be according to the constitutional processes of the U.S. Government.

Mr. President, I yield back the remainder of my time.

ADDITIONAL STATEMENT SUBMITTED ON BIDEN AMENDMENT NO. 966

Mr. ROTH. Mr. President, it is never a pleasant task to send Americans to a dangerous part of the world, even when that is done in the interests of peace. I have given a great deal of thought to the proposal that the United States send up to 200 civilians to man an early warning system in the Sinai Desert and the possible alternatives. I believe the resolution before us minimizes the risks as much as possible. It provides that only volunteers will be sent and that they will be removed immediately in the event of hostilities. Congress may also remove them at any time by privileged joint resolution if it determines that their safety is in jeopardy or that they are no longer needed. I have come to the conclusion that it is necessary, in our best interests, to authorize the sending of the civilian monitors.

It should be borne in mind that this resolution explicity does not commit the Congress to approval of other agreements or understandings made in connection with the Sinai Pact. Future levels of military and economic aid to Israel and Egypt and the provision of Pershing missiles will require separate congressional action. These other questions can await further congressional consideration, but it is necessary that the civilian technicians be authorized now if the interim peace accord, so painstakingly negotiated over many months, is to survive. President Sadat's moderate line has been under heavy fire from Arab radicals. Delay in implementing the Israel pullback which depends on our action today, could scuttle the entire accord. This would greatly increase the chances of a new war with grave consequences for the United States.

I can understand the desire of many Americans to stay uninvolved in the hopes that this country could somehow escape the consequences of a new Middle Eastern war. This is, however, wishful thinking. It should be remembered that the 1973 Arab oil embargo was applied against countries like the Netherlands and Japan which had no involvement whatsoever in the conflict. Because of its oil, the Middle East has become one of the most important strategic assets in the world. Without Arab oil, the economies of our allies in Western Europe and Japan would simply collapse. If the Middle East fell into the hands of a hostile power, it could be a greater danger to the United States than the loss of any other area outside our own hemisphere.

Some people have asked me why the United Nations could not provide the technicians. I wish the United Nations were the kind of international organization in which Israel and Egypt could have confidence, but it is not. Both sides have insisted on American technicians, and the history of the negotiations shows that neither will accept any alternative. It should be remembered, however, that the Americans are not alone. There are about 5,000 United Nations troops, donated by various small countries around the world, that are also situated between Israel and Egyptian forces.

Other people have expressed fear that the sending of technicians will be the first step in a new Vietnam. I believe that a distinction must be made between our military advisers who were sent to Vietnam in the early 1960's for the express purpose of helping the South Vietnamese fight the war and the civilian technicians of today which would be sent to protect a peace. The resolution not only provides for their removal in the event of war, but the War Powers Act, enacted 2 years ago, prevents U.S. involvement in any prolonged hostilities without approval by Congress.

There can be no absolute assurance that there will not be another conflict in the Middle East. If tensions between Egypt and Israel have been eased, there is still the very dangerous situation along the Israeli-Syrian border. An assassin's bullet in Egypt could change that country's policies overnight. But this agreement, in my judgment reduces the risk of war during the next 2 to 3 years. It continues the step-by-step

process toward the consolidation of a lasting peace. There are risks to the United States of the current agreement, but the risks of no agreement are much higher. I am hopeful that we will look back upon the agreement as an important and necessary step that led to an end to bloodshed in the Middle East.

Mr. HUMPHREY. With that understanding, Mr. President, I move that the amendment be tabled and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Minnesota. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCLELLAN. Mr. President, on this vote I have a live pair with the distinguished majority leader, Senator MANSFIELD. I understand if he were present and voting he would vote "Nay." If I were permitted to vote I would vote "Yea." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. McGEE), the Senator from South Dakota (Mr. McGOVERN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Montana (Mr. MANSFIELD), the Senator from Montana (Mr. METCALF), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

I also announce that the Senator from Michigan (Mr. HART) is absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. McCLURE), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The result was announced—yeas 51, nays 32, as follows:

[Rollcall Vote No. 440 Leg.]

YEAS—51

Bartlett	Goldwater	Ribicoff
Beall	Griffin	Roth
Bellmon	Hansen	Schweiker
Bentsen	Hathaway	Scott, Hugh
Brock	Hruska	Stafford
Buckley	Huddleston	Stennis
Byrd, Robert C.	Humphrey	Stone
Case	Jackson	Symington
Chiles	Javits	Taft
Church	Kennedy	Thurmond
Culver	McIntyre	Tower
Curtis	Mondale	Tunney
Dole	Montoya	Weicker
Domenici	Moss	Williams
Fannin	Packwood	Young
Fong	Pastore	
Garn	Pearson	
Glenn	Percy	

NAYS—32

Abourezk	Byrd,	Eagleton
Allen	Harry F., Jr.	Eastland
Biden	Clark	Ford
Bumpers	Cranston	Hart, Gary W.
Burdick	Durkin	Hartke
Haskell	Magnuson	Randolph
Hatfield	Mathias	Scott,
Helms	Muskie	William L.
Hollings	Nelson	Stevenson
Johnston	Nunn	Talmadge
Leahy	Pell	
Long	Proxmire	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

McClellan, for.

NOT VOTING—16

Baker	Inouye	Metcalf
Bayh	Laxalt	Morgan
Brooke	Mansfield	Sparkman
Cannon	McClure	Stevens
Gravel	McGee	
Hart, Philip A.	McGovern	

So the motion to table Mr. BIDEN's amendment (No. 966) was agreed to.

Mr. HELMS. Mr. President, I call up an amendment which I have at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 2, line 10, change the period to a semicolon and insert the following:

"*Provided further, however,* That in no case shall any United States civilian personnel be assigned to Sinai one year after the implementation of the Egyptian-Israeli Agreement of September 4, 1975, unless Congress by concurrent resolution directs the President to renew such assignment for another year."

The PRESIDING OFFICER. The Senate will be in order. Senators will kindly take their seats.

Mr. HELMS. Mr. President, for the information of Senators, I shall try to be brief. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HUMPHREY. Mr. President, is it still in order to move to lay the amendment on the table, at the proper time?

The PRESIDING OFFICER. It is in order when all the time has been used or yielded back by the proponent. It would then be in order to move to lay on the table.

The yeas and nays have been ordered. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, there is no mystery about the intent of my amendment. It is simple and straightforward. It merely provides that Congress retain the initiative on the continued implementation of the Sinai agreement. It puts a 1-year ceiling on the length of time during which the U.S. technicians can be stationed in the Sinai. If necessary, Congress can very easily extend the time by concurrent resolution.

This is a very reasonable restraint. It does not affect the implementation of the U.S. proposal in anyway. It allows the Egyptian-Israeli agreement of September 4 to go into effect. If everything proceeds on schedule and according to the way it has been described to us, my amendment will have no practical impact whatsoever. Indeed, we have been told many times that the Egyptian-Israeli accord is only an interim step to a final agreement, that progress demonstrated by this first step is essential to a lasting agreement, and that we can well hope for better things in the future.

But let us suppose that things do not quite develop the way in which Congress imagines they will develop. Let us suppose that developments in the Arab world take an unexpected turn, or that the Israeli interpretation of the implementation of the agreement differs from ours in substantial matters. Such things often happen; everyone looks upon events from their own perspective, shaped by events unique to their own experience. It may very well be that 1 year from now, Congress may look upon what we are doing here today in a different light. We will regret that we gave permanence or at least an indefinite duration, to an untested and unique arrangement.

Now I realize fully that Senate Joint Resolution 138 clearly makes provisions for the abrogation of our arrangement to station technicians in the Sinai. But what happens if the Senate takes the initiative, using the method of a concurrent resolution as provided in the resolution, to break off an arrangement that is already in place? It is a much more rash action. It suggests the betrayal of a trust, a shifting of opinion, a rejection of an agreed-upon role. At such a time, we could argue all we liked about changing conditions or other factors that we thought altered our agreement; the fact would still remain that our withdrawal would create a traumatic event of far-reaching consequences. If the situation deteriorated we would be faced with a dilemma: Either maintain the U.S. technicians in place with unacceptable consequences, or suffer an upheaval in the Middle East that could well be the general collapse we all fear.

In short, the procedure provided in the resolution is far too drastic, and limits our options under unfavorable circumstances. It is essentially a negative procedure, and unworkable in most cases. It is good to have such an ultimate safety valve, but it does not provide us with the flexibility we need.

Under my amendment, Congress would play a positive role in maintaining U.S. technicians in the Sinai. We would have the advantage of a year's perspective on the operation of the proposal. If the proposal does not work out, Congress can let the plan die quietly without a divisive debate between the executive and legislative branches. The conclusion of the plan under such circumstances would have less international impact, since every one would understand from the beginning that the authorization was only for 1 year.

Moreover, the congressional time limit would put quiet pressure on both parties to the Egyptian-Israeli agreement to come to mutual terms for a permanent settlement. Congress would be abrogating its responsibilities if we were to approve an open-ended authorization for a short-term plan. There is always the possibility that the plan would continue long past its usefulness, and be ignored in the swirl of other events, only to become the focus of an international incident when we least expect it. It is far better to require an annual renewal of the authority, rather than a mere review, or Presidential report, or other device whereby the topic would receive scant attention.

On the other hand, the procedures set up under Senate Joint Resolution 138 would insure that any concurrent resolution directing the President to continue the plan for another year would get prompt attention. It would be privileged in the same manner and to the same extent as the resolutions authorized in lines 5 through 10 of Senate Joint Resolution 138, that is to say, in the same manner and to the same extent as a concurrent resolution introduced under the terms of the War Powers Act. This would guarantee that if it were really necessary to continue the technicians in the Sinai, it would receive prompt attention and would not be killed by being pigeonholed.

Let me sum up, then, the advantages of my amendment:

First. It would not affect implementation of the plan to station U.S. technicians in the Sinai.

Second. It would not affect the immediate implementation of the Egyptian-Israeli agreement.

Third. It would not affect the right of Congress to call a halt to the technician stationing plan if hostilities broke out, or if the stationing were no longer necessary.

Fourth. It would place reasonable pressure upon both Egypt and Israel to come to further concessions within a responsible time frame.

Fifth. It would maintain congressional rights to keep a positive role in the continued implementation of the stationing agreement.

Sixth. It would diminish the international impact of ending the plan if Congress chose not to extend it.

Seventh. It would give Congress a year's time to study the operation of the plan while keeping open the options of congressional action.

In short, by accepting my amendment, the Senate will be saying whether or not it is prepared to accept a responsible and creative role. It does not reject the plan out of hand; neither does it provide a blank check, open-ended commitment of the kind that has given this Nation so much agony in the past. In the judgment of the Senator from North Carolina, we will be falling far short of our duty to the people of the United States if we fail to approve this reasonable restraint.

Mr. President, I am well aware that a motion to lay on the table is forthcoming. I have learned to expect that. I really wish we could get an up or down vote on this proposal, but I understand the name of the game under the prevailing circumstances. I hope I am wrong, but I suspect the Senate may, in the future, regret the scant attention being given many worthy amendments offered in good faith by those of us who are concerned about this agreement and its implications.

Before that motion to table comes, let me state the advantages of my amendment to this almost-empty Chamber.

First, it would not, I will say to the distinguished Senator from Minnesota, affect implementation of the plan to station technicians in the Sinai.

I assume he agrees with that.

Second, it would not affect the immediate implementation of the Egyptian-Israeli agreement.

Third, it would not affect the right of Congress to call a halt to the technicians-stationing plan if hostilities broke out or if the stationing were no longer necessary.

Fourth, it would place reasonable pressure upon both Egypt and Israel to come to further concession within a responsible time frame.

Fifth, it would maintain congressional rights to keep a positive role in the continued implementation of the stationing agreement.

Sixth, it would diminish the international impact of ending the plan if Congress chose not to extend it.

Seventh, it would give Congress a full year's time to study the operation of the plan while keeping open the option for congressional action.

In short, by accepting this amendment, Mr. President, the Senate will be able to say whether or not it is prepared to accept a responsible and creative role. It does not, I emphasize, reject the plan out of hand; neither does it provide a blank check, open-ended commitment of the kind that has given this Nation so much agony in the past.

In the judgment of the Senator from North Carolina, we will be falling far short of our duty to the people of the United States if we fail to approve what I hope is a reasonable restraint.

Mr. WILLIAM L. SCOTT and Mr. RANDOLPH addressed the Chair.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. HELMS. I am delighted to yield to the able Senator from Virginia.

Mr. WILLIAM L. SCOTT. Mr. President, I rise in support of the amendment by your distinguished colleague. We are moving rather fast here on this measure. It was only brought to the floor yesterday. It was reported by the committee yesterday.

But, Mr. President, this proposal does give us time to think by just making a temporary 1-year commitment on the assignment of these observers to the Sinai. It is an excellent amendment. It may be that in time we will find that we are doing the right thing. I do not think we are. But it may be that we will find we are or are not doing the right thing.

As I understand the agreement we read in one paragraph that we will keep our observers, our technicians there for the duration of the agreement. Then when we look at the following paragraph, it indicates that we can remove them in the event we feel there is no longer a need for it, or in the event we feel that they are endangered. So, first, it giveth, and then it taketh away.

I believe that where we put a 1-year limitation unless Congress again acts is a very responsible thing to do, and I hope that this amendment will receive support.

Let me just add that when we make decisions as quickly as we are trying to make them, there are only a half dozen Senators here in the Chamber tonight listening to this. I believe that they should be able to read the RECORD tomorrow morning before they decide how they are going to vote on final passage and see the statement that is made by the distinguished Senator from North Carolina. I made some comments. Various Senators have commented on the merits of this entire resolution. Some of our colleagues do read the RECORD in the morning, and it is wrong for us to vote on final passage tonight.

I commend the Senator on his amendment.

Mr. HELMS. I thank the able Senator for his comments.

Did the Senator from West Virginia wish me to yield to him?

Mr. RANDOLPH. I would appreciate my colleague yielding at this time.

Mr. HELMS. I am delighted to yield to the able Senator.

Mr. RANDOLPH. Mr. President, regardless of amendments that will be added to the proposal, which would implement the action of the United States in reference to the early-warning system in the Sinai, I take this opportunity to state my views for the RECORD. My feelings will be reflected, of course, on the final rollcall on the resolution itself, but I use this occasion to ask our colleague if he feels there is any amendment, or any group of amendments, that will make the pending proposal acceptable to him?

Mr. HELMS. This amendment I will say to the distinguished Senator would make it somewhat less unpalatable to me, because it would require affirmative action 12 months hence.

I hope the distinguished Senator from Minnesota, before he makes his motion to table, will tell me what harm my amendment will do. The truth is, it could not possibly do harm. To the contrary it could keep us out of an agonizing situation, I say to the Senator. Unless Congress affirmatively acts 12 months from now, the agreement would expire. But Congress would be required to review it, and vote affirmatively to continue it. It is, I think, our duty to accept that responsibility.

Mr. RANDOLPH. Mr. President, will our colleague yield further?

Mr. HELMS. I am delighted to yield to my able friend from West Virginia.

Mr. RANDOLPH. It is my belief that over a long period of time the United States of America has spread itself too thin over too wide an area of the Earth. This has happened in many, many ways, and certainly in matters of the nature contemplated here. I cannot subscribe to such a proposal as is pending in the Senate. I have studied the issue. I have said to my constituency in West Virginia that I will cast my vote when the rollcall comes, whether it is tonight or tomorrow, against the agreement between Israel and Egypt as represented by the U.S. proposal for the early-warning system in the Sinai.

I am not a Senator who is a carping critic. I feel that Secretary of State Kissinger is a man of substantial talent. But in his attempt to cope with problems throughout the world—wherever they may be—I have stressed that when he brings parties together for a cease-fire, a pause, a better relationship, or whatever it is, there always follows the giving of substance of the United States of America to both parties. That is what is happening over and over and over and over again. This is happening as the result of executive branch activities with-

out appropriate consultation with the Congress. We are then expected to rubberstamp the proposals of the Executive.

What do I have as an answer from our colleague from North Carolina as to the final cost of this proposal if implemented by the Congress?

Mr. HELMS. I am sure the Senator has heard various figures. That is the point. Nobody knows how many billions of the taxpayers' money is being committed by this overall agreement.

I share the distinguished Senator's concern about spreading ourselves thin around the world. I share his view we had better get this country safe and strong again.

The purpose of my amendment, I reiterate to the Senator, is to limit what otherwise could be an interminable commitment, stretching out into years and demanding billions upon billions of dollars and, worse than that, the possibility of many thousands of lives. Needless to say, I hope that I am wrong in both cases, but I believe there should be a safety valve, so that Congress will be required, in the coming year, to make another assessment and a fresh judgment and to take a stand on whether to continue this agreement after 1 year.

Mr. RANDOLPH. I ask the Senator to yield further, so that I may ask if it is the intent of the able Senator from Minnesota (Mr. HUMPHREY) to have an up-and-down vote; or, I ask the Senator from New Jersey, the able comanager of the measure, whether we will have the opportunity for an up-and-down or do we face a tabling motion?

Mr. CASE. We do intend to offer a motion to table the amendment, when Senators have discussed it as long as they wish.

Mr. HELMS. On my time, I wonder whether I might ask the able Senator from Minnesota or my friend from New Jersey—both of them are my friends, and they know it—what is wrong with letting the Senate vote on this amendment up and down. Why constantly table things? Let the Senate speak. This appearance of Senators ducking out by a parliamentary tabling motion is getting sort of old. The Senator from Minnesota is taking over where Senator JAVITS left off on my busing amendments.

Mr. HUMPHREY. Not a bad idea. [Laughter.]

Mr. HELMS. I think it is a terrible idea. Where is the Senate's courage? Let the Senate vote up and down, and I will be glad to yield back the remainder of my time right now.

Mr. CASE. How long will the Senator take if we do not? [Laughter.]

The Senator assured us at the outset that he would talk for 2 or 3 minutes.

Mr. HELMS. I do not believe the record will substantiate the Senator. I availed myself of the privilege of engaging in a colloquy with the distinguished Senator from West Virginia.

Mr. CASE. That is always a pleasure for his colleagues.

Mr. HELMS. I knew the Senator would agree with that.

I reiterate the hope that the Senator will let the Senate vote on this proposition and not duck out on a tabling motion.

Mr. HUMPHREY. Mr. President, will the Senator yield, on his time?

Mr. HELMS. I yield on the time of the Senator from Minnesota.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. HELMS. Mr. President, how much time do I have remaining?

Mr. ABOUREZK. I yield on my time. I have about 3 hours or so remaining. [Laughter.]

Mr. HELMS. I am going to yield to the Senator from South Dakota, but I want to find out how much time I have remaining.

The PRESIDING OFFICER. The Senator has 8 minutes.

Mr. HELMS. I yield to the distinguished Senator.

Mr. ABOUREZK. Put this on my time, Mr. President.

Mr. HELMS. The Senator can have my time if he needs it.

Mr. ABOUREZK. I ask the distinguished floor managers of the bill if they will accede to the request of Senator HELMS to allow an up-and-down vote. I think that Senators who are offering amendments and calling them up are entitled to an up-and-down vote on those amendments.

It is a bit personally offensive to me, at least, to have an amendment that I call up in good faith tabled or to have a motion to table. I do not think the Senators have anything to worry about on any of these amendments, at least the ones I have seen so far.

Mr. CASE. There is one good answer to the Senator, and it is that we do not oppose many of these suggestions in substance. We did not oppose last night the idea that we were willing to reaffirm our support of Resolution 242.

On the appropriate occasion, it seems to me that is a reasonable thing to do, if necessary. Having treated that amendment in that fashion, I think a tabling motion is really equivalent to a vote up and down.

The only thing I object to—and I believe we have pretty well cured ourselves of this practice—is the use of a tabling motion to cut off debate, to take a Senator off his feet. As the Senator knows, this has not been the way in which that motion has been used in this matter, nor, so far as I can remember, has it been used in this body at all since the memorable occasion on which we were talking about Bobby Baker.

Apart from that, I see no evil in a tabling motion. It leaves people entitled to say that there are peculiar circumstances why at this particular time that idea was not a good one. I think it is a very fair thing to do. If people do not want to do that, they can vote against tabling and then vote against the proposition itself.

Mr. HELMS. The Senator knows that the steamroller is rolling. The pressure is on.

Mr. CASE. Mr. President, I object. That is a general statement. I do not think it pertains to anyone involved in this matter.

Mr. ABOUREZK. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from South Dakota yielded himself time, so the Senator from South Dakota has the floor.

Mr. HUMPHREY. Mr. President, a point of order.

Mr. ABOUREZK. Mr. President——

Mr. HUMPHREY. Mr. President, a point of order is in line. The Senator from North Carolina did not sit down; he did not yield the floor. The only thing the Senator from North Carolina did was to yield to the Senator from South Dakota under the Senator's time. I ask for a ruling.

Mr. HELMS. I yielded the floor and reserved the remainder of my time.

The PRESIDING OFFICER. The Chair observed that the Senator from North Carolina did sit down, and the Senator from South Dakota did yield himself time—in fact, he insisted that the time be charged to him. So the Senator from South Dakota is recognized.

Mr. HUMPHREY. I stand corrected. I did not observe that the Senator from North Carolina had in any way rested or inclined, nor was he seated, nor did he look fatigued.

The PRESIDING OFFICER. The Senator from North Carolina sat down and stood up again.

Mr. HUMPHREY. If the Chair says he sat down, I respect the Chair.

Mr. HELMS. I do not recall sitting down. I yielded the floor intentionally, and reserved the balance of my time. The question is academic. [Laughter.]

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABOUREZK. I hope the argument over there was not taken out of my time.

The PRESIDING OFFICER. No. The Chair reluctantly observes that the argument was on the time of the Senator from South Dakota.

Mr. ABOUREZK. I will yield to Senator RANDOLPH, but before I yield to him, I just want to say to my good friend Senator CASE that it would be impossible to cut off debate on a tabling motion on a time agreement. That is why no Senator has been taken off his feet by virture of a tabling motion during this debate, because we do have a time agreement.

I want to yield a few minutes to the Senator from West Virginia. How much times does the Senator desire?

Mr. RANDOLPH. Will the Senator yield to me for a question, perhaps a colloquy?

Mr. ABOUREZK. I yield 5 minutes to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I believe the three Senators who have been talking on this matter are all in agreement that was shall vote against the implementation of the Sinai proposal. I ask the Senator from South Dakota (Mr. ABOUREZK) is that right?

Mr. ABOUREZK. I am on the record as being against the Sinai proposal.

Mr. RANDOLPH. The Senator from North Carolina stated his opposition to the proposal, and the Senator from West Virginia, who is now in colloquy with the Senator from South Dakota, will vote against the agreement.

This is not a matter of emotion. It is not a matter of so-called choosing sides. It is not one country against another—Israel or Egypt. The record will show that I have consistently supported measures to strengthen and maintain the independence of Israel. These are goals which Israel rightfully seeks to achieve. The critical question here is the methods of seeking peace that the Senate is being asked to sanction.

Mr. President, this is a matter on which Senators must search themselves very carefully in making a decision. I repeat what I said earlier. I think the United States of America fails, really, to serve itself. It fails, also, to serve any other area of the Earth, when it attempts to do what it is doing in connection with this so-called arrangement to which, now, we are called to give our approval. I say that quietly and earnestly, and I wish the record to reflect my views before a final vote comes. Regardless of the amendments—some of them, of course, well designed and possibly helpful—the basic proposition is a matter which concerns me and which I cannot support and which, on rollcall, I shall vote against. The Sinai proposal, in my judgment, will be counterproductive to peace in the Middle East.

I understand that there will not be many votes for the position that I and others have taken in this body.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ABOUREZK. Mr. President, if I may take a few minutes to express my thoughts, I think we are approaching final passage on this measure, or it will come very shortly. I should like, at this point, to express the reasons for my strong opposition to passage of this resolution or this agreement.

My opposition goes beyond the tremendous dollar cost to both the U.S. Treasury and the taxpayer to implement this agreement, and all the ancillary agreements that have been talked about as being either secret or not secret. It goes beyond the guarantee and assurance of oil to Israel during the 5-year life of the oil agreement; and it is more than the 200 technicians being placed in the Sinai in a potential position of great danger. It goes right to the heart of the Middle East conflict—the Palestinian problem. The Palestinian people have been dispersed as a result of the creation of the State of Israel. After this agreement, they are further away from obtaining their own homeland than they ever were. In fact, it has been the objective of the State of Israel, for some 27 or 28 years, to try to freeze out the Palestinians from any kind of negotiation, from any position of power, so that they could try to regain some kind of homeland for themselves.

What Israel could not accomplish in more than a quarter of a century, the Secretary of State, Henry Kissinger, and the U.S. Congress are accomplishing with one fell swoop in this agreement—the exclusion of the Palestinians. They are the people who are trapped in the Middle East. I know a lot of Members of this Senate have traveled to the Middle East and have seen the camps as well as I have. I have talked to the Palestinians and I have listened to them. I have seen what kind of people they are and how they feel about this whole issue of a homeland for themselves.

I am continually asked by Palestinians, whenever I go to the Middle East or whenever I meet them here: Why is it that the U.S. Senate is so concerned over the security of Israel and have no concern whatsoever for a homeland for the Palestinians? That question consistently comes up, and I am honestly hard put to explain why. In fact, I do not even know if anybody can give an explanation. I do not believe there is a satisfactory explanation that can be given for the question.

The more that the U.S. Senate, and the entire Government, for that matter, continues to support Israel with military armaments, which insures its overpowering military superiority over its Arab neighbors, the less chance there is for a final peace settlement in the Middle East.

Make no mistake about it: The U.S. Senate is contributing to the continued conflict in the Middle East. We only delude ourselves if we think that more arms for Israel means more peace in the area. The past 27 years have proved that to be so.

We have now come to the point where we believe that our balance-of-payments problems, aside from the problem of Israel and the Arabs, are so serious that we have to start arming the other side in the conflict. We are now arms to the Arab Nations selling while giving them to Israel. That is the kind of philosophy that we are following at this point, and regretfully unthinkingly following, because there are pressures upon Members in this body, pressures on the administration to get these agreements through, to provide support for Israel, pressures, that a lot of people cannot resist. I do not criticize them for that.

What I am saying is that the passage of this agreement is not going to bring peace. The passage of this agreement is going to continue the conflict. It is going to tear up Lebanon; it is going to destroy Syria; and it may destroy Israel in the long run. We all have to realize that as well. It has to be something that we have to take into account.

We just cannot lightly vote for these arms shipments and these agreements that separate the Palestinians, divide the Egyptians, and weaken one side of that negotiating bloc. If we really want a peaceful settlement in the Middle East, if we really want it—and I have no delusions that we are going to defeat this amendment—we will withhold arms shipments to the state of Israel until Israel agrees to sit down and face the Palestinian question. The minute the United States has guaranteed an annual arms shipment to Israel, we have lost any leverage this Government might have had to make that peace settlement come about.

I just want to make a prediction that it is not going to be too much longer, in fact, we can start the countdown right now, before we see the explosion starting in the Middle East.

Henry Kissinger might have put it off until after the 1976 elections with this agreement. He might have succeeded in doing that. But if he did, that means that the explosion is only going to be that much larger than it ever would have been before the 1976 elections.

Most of us play politics. We all have elections on our minds. But it would seem to me that we could put an end to the suffering of hundreds of thousands of people in the Palestinian refugee camps at some point in our careers by facing this crucial issue here and now, before implementation.

Mr. RANDOLPH. Mr. President, will my colleague yield?

Mr. ABOUREZK. I yield.

Mr. RANDOLPH. It is my colleague's reasoning, and I think realistic reasoning, peace in the world is not brought about by the shipment of armaments to one country, no matter what the name of that country might be, and then the shipment of armaments to another country, whatever that country's name might be. He feels, as I understand, that the shipment from the United States of armaments to countries throughout the world may jeopardize the prospects for peace. Is that correct?

Mr. ABOUREZK. That is correct. In addition to that, if I might reiterate to my colleague from West Virginia what I said earlier, the United States is paying for both kind of armaments. We are giving the armaments to Israel and we are selling them to the Arab oil countries. And we are paying a higher oil price because of it. In fact, the Arab oil countries tell me that we are paying both ways. The Saudis have told me on more than one occasion that they would reduce the price of oil if they did not have to buy arms because of their fear of what is going to happen in the Middle East—whether it be an overthrow of their monarchy or an attack from the Shah of Iran, or some invasion on the part of the United States to take over their oil fields, either by the United States directly or by Israel. We are paying both ways.

Mr. RANDOLPH. Mr. President, one further question. Then I shall close my colloquy.

Does the Senator not feel that the time has come, for a "relook" at our entire foreign policy? This is felt, not by the Members within the Senate, but by the people of the United States. This, perhaps, would be a good time to take this "relook" and to express in the Senate the belief that we cannot go into every section of the Earth—no matter the countries involved—and attempt to establish the machinery by which a cease-fire or an agreement might occur?

Is there not a higher obligation to work for lasting peace, I say to my friend from South Dakota, that the American people believe in? I feel there is, and I believe it will be expressed. We must not resort to expedient short-term measures. I am not critical of any colleague who disagrees with me. This, perhaps is not a crucial vote, so to speak, from the standpoint of its closeness. It is one, however, that encompasses the larger question of whether we strive for ultimate

and lasting peace for the peoples of the world, and not continue a strategy or maneuver in one part of the world or another to settle on a temporary basis situations of conflict.

Mr. ABOUREZK. I agree.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? Is all time yielded?

Mr. HUMPHREY. Is the Senator prepared to yield back his time?

Mr. HELMS. I will be delighted to yield back if the distinguished Senator is willing to do so, after he tells me of any harmful effects my amendment would have.

Mr. HUMPHREY. I will take 3 minutes to tell the Senator of the harmful effects.

Mr. HELMS. Very well.

Mr. HUMPHREY. Mr. Sadat, the President of Egypt, has assured this Government that there will be a 3-year extension of U.N. forces in the Sinai; that was a part of the understanding that has been arrived at, and until now you never knew whether it would be 3 or 6 months. It always precipitated a dangerous proposition.

Second, I will quickly say that the resolution we have before us provides for withdrawal of these forces, provides for Congress to have a concurrent resolution and provides for priority of attention on the part of the appropriate committees of Congress for that resolution.

It is my sincere judgment, may I say to the distinguished Senator from North Carolina, that his amendment will unravel a part of this agreement that is fundamental to peace in that part of the world; namely, the presence of the U.N. forces not to be withdrawn for at least 3 years. I think that is vital.

I want to remind the Senator that those U.N. forces, if withdrawn, can again precipitate hostilities. That is my reason.

Mr. HELMS. I will say to the distinguished Senator that the Senator from North Carolina fails to see how it can logically be said that the Senate would adversely affect this agreement. If it is a good one, as the Senator proclaims it to be, what can be wrong with retaining the right to stipulate the absolute obligation of the Senate to act affirmatively in continuing it after 1 year. If the agreement is as worthy as the Senator says it is, continuation of it a year hence would be perfunctory. If, on the other hand, it proves to be an unwise agreement, then we will have a built-in safety valve.

I think it is the duty of the Senate to spell out and to make clear that it must take another look at this thing a year from now because, as the Senator knows, if no action is taken it rides right along, whether it is a good agreement or whether it is a bad agreement.

Mr. President, I am well aware that a motion to table is coming. I regret it. I hope that my fears are unfounded that the Senate will regret it in the future.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. HELMS. Yes, I yield to my distinguished friend from Arizona.

Mr. GOLDWATER. As the Senator knows, I am one of his staunchest admirers. I campaigned in his State for him. I think it is very obvious that any tabling motion is going to succeed. I think they could table the Lord's Prayer if they took a mind to do it.

Mr. HELMS. No question about it.

Mr. GOLDWATER. I suggest, because it is quite obvious what the final outcome is going to be, and I am going to vote against this measure, in order to take care of people sitting here day after day and hour after hour, that the Senator withdraw his amendment. I offer it as a friend. I think it will help him, will help the Senate, and help us get to a vote so that we can get this thing over with.

Mr. HELMS. Well, there is no Member of the Senate whom I respect more than the Senator from Arizona, and his suggestion is well taken. I will allow it to be tabled on a voice vote, because as the Senator says, the Lord's Prayer would run the risk of being tabled tonight—either by rollcall or voice vote.

Mr. GOLDWATER. I am not going to argue.

Mr. HELMS. I yield back the remainder of my time.

Mr. HUMPHREY. Mr. President, I yield back the remainder of the time.

Mr. President, I now move to lay on the table the amendment of the Senator from North Carolina.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that we have a 10-minute rollcall.

The PRESIDING OFFICER. The yeas and nays——

Mr. GRIFFIN. I must reluctantly object. There are several Members away from the Hill.

The PRESIDING OFFICER. There is objection.

Mr. HUMPHREY. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered on the up-or-down vote but the yeas and nays have not been asked for on the motion to lay on the table.

Mr. HUMPHREY. Does the Senator want the yeas and nays?

Mr. HELMS. I think not.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina.

The motion was agreed to.

AMENDMENT NO. 964

Mr. MATHIAS. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk proceeded to read the amendment.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 17, insert after "SEC. 5." and before "The authority contained in this joint resolution" the following: "The authority of the President to implement the 'United States Proposal for the Early-Warning System in Sinai' shall terminate on February 1, 1977, unless extended by joint resolution.".

Mr. MATHIAS. Mr. President, this amendment is similar in its thrust to the amendment of the Senator from North Carolina which we have just been discussing, but there is one important difference. That amendment would have brought this question to the Senate again next October, because it called for a 1-year termination. That would have been at a time within 30 days of a Presidential election. It would have been a time when presumably Congress would have been in recess or in adjournment because of that, and this proposes that we start a process of annual renewal beginning on the 1st of February 1977.

The prime aim of this amendment is really to provide some facility to terminate this at some time, and I am moved to seek that aim as a result of the work of the Senate Committee on Terminating National Emergencies, to which the Senator from New Jersey, one of the managers, has contributed so very well and to which he has brought so much wisdom and knowledge.

The examples of history are very sobering. We have the example of the Formosa resolution in which we vested special powers in the Presidency, and which has now been repealed by Congress, but which persisted for 18 years like a time bomb in which the executive could have called up and used and, unhappily possibly abused, powers which were contained in the Formosa resolution.

I do not have to expound on the dangers that were involved in the Gulf of Tonkin resolution. There again we had an open-ended resolution.

I consider that my vote in favor of the Gulf of Tonkin resolution was the biggest single mistake I made in my years in Congress, and I do not want to repeat that mistake. I feel obligated, even though the hour is late and we have been working on this thing for a long time, to raise this question with the Senate.

We cannot, I think, go to the American people and say, "No matter how great the cause, no matter how noble the motivation, no matter how important the question, we have neglected one of the lessons we learned in the Gulf of Tonkin experience."

And, of course, there is the previous Middle East resolution which was adopted at the time of the Lebanon crisis during the Eisenhower administration, which is still active law on our books, and which still vests with the Executive very serious powers, and it is open ended. There is no terminal date. Nobody knows when these powers might be summoned up, Congress really having delegated this authority, having obtained no way to get back its authority, and has become, in effect, kind of a hostage to the will of the Executive.

There are even more serious examples than these. There is on the statute books of the United States an old statute called the Food and Forage Act. It was designed for the simple purpose of enabling the

cavalry during the Indian wars to go out and supply themselves with hay for their horses if they happened to be out somewhere in an operational area and their appropriation expired.

There was no terminal date on the Feed and Forage Act, it just laid dormant on the books.

Nearly 100 years after its enactment, the Secretary of Defense came to the Congress and said, "We will run the Vietnam war whether you give us any money or not, we don't care if you pass a resolution which cuts off our appropriations to run the war, we have got the Feed and Forage Act, we can run it on a deficit basis under that act."

I am sure that our predecessors here who enacted that act never dreamed that the United States would ever be in a war in Vietnam, they never dreamed that a Secretary of Defense would threaten defiance to the Congress under the circumstances in which that occurred, and yet it did occur.

So while we can rationalize the situation and say, "Well, we do not need a terminal date in this resolution," the fact is that no one can fully foresee what the future may hold, and I am concerned that we launch a vessel on the waves tonight to a destination no person can foresee.

I cannot accept this without a serious objection.

Mr. President, there is one further point I would like to make. I think if this is left open-ended we not only have a statute on our books for which there is no terminal date, no opportunity in which the Congress must shoulder the responsibility of deciding whether to continue or terminate, but we also create a situation in which the United States becomes a sort of permanent caretaker. A static situation is created in which the parties may have less desire to move forward than if it were clearly understood that there was going to be an annual review and annual debate in the Congress of the United States.

While I am talking about February 1, 1977, I am not necessarily talking about termination of this arrangement. I am talking about a renewal of this arrangement in 1977.

But I do have several questions that I would like to ask the managers of the bill and the members of the committee, because this resolution has some signal differences from the Tonkin Gulf resolution, from the Formosa Straits resolution, from the Middle East resolution and from the Food and Forage Act.

I am referring to those provisions which call for immediate annual reports by the President to the Congress and, even more particularly, for the unique language which is in this resolution, which does not appear in any of the previous resolution, which allow for termination of the President's authority to implement the U.S. proposal for the early warning system in Sinai, upon the concurrent resolution of the Congress.

We all know that a concurrent resolution does not require the signature of the President, it is an act independent of the President.

In the Tonkin Gulf situation, the great difficulty was that we could not repeal it because the Executive would not agree. It would have required a two-thirds majority to override a veto of a repealer.

This is a different situation, or at least on its face it is different, but I want to be sure it is different.

Could the managers of the bill give us any assurance about what they, as members of the Foreign Relations Committee, foresee as their responsibility and their duty when they get these reports from the President, or if between reports from the President there should be events occurring which would lead them to believe that we should terminate the agreement?

Mr. HUMPHREY. Will the Senator permit me to reply to him?

Mr. MATHIAS. I am happy to yield to the distinguished Senator.

Mr. HUMPHREY. Might I say, as the Senator himself has well noted, there is deep concern over any resolution that seems to have no termination date to it, and that was taken under advisement by the Senate Foreign Relations Committee. It was discussed and appropriate language, we believe, was placed in this resolution to take care of that possible danger.

The Senator has alluded to the concurrent resolution provision and on page 2 of the resolution, Senate Joint Resolution 138, it reads:

Not only that the United States civilian personnel assigned to the Sinai under such proposal shall be removed immediately in the event of an outbreak of hostilities between Egypt and Israel, or if the Congress by concurrent resolution determines that the safety of such personnel is jeopardized—

Now, this is the language that is important:

or that continuation of their role is no longer necessary.

That means that any Member of the Senate, any Member of the Congress, can move that these observers in the early warning system are no longer necessary. That is in our provision.

As the Senator from Maryland noted, a concurrent resolution does not require this Presidential signature to have force of law. So there is no danger of veto, and it only requires a majority vote of those present once a quorum has been established.

The other part that I would note is that any concurrent resolution, wherever it may emanate, out of a committee or by the work of a particular Senator, of the type described in the first section of this resolution which is introduced, shall be privileged in the same manner and to the same extent as a concurrent resolution of the type described in section 5(c) of Public Law 93–148, is privileged under section 7 of such law.

That is the War Powers Act. The Senator from New York is the main architect of that act, along with the cooperation, may I say, of the Senator from Maryland, and others.

The other part that is important here that I think relates directly to the concern expressed by the Senator from Maryland is as follows:

That whenever the United States civilian personnel, pursuant to this resolution, participate in any early-warning system, the President shall—

Not "may" but "shall."

so long as the participation of such personnel continues, submit written reports to the Congress periodically, but not less frequently than every 6 months.

So he cannot go over 6 months.

And those reports shall be, 1, on the status, scope and anticipated duration of their participation; 2, on the feasibility of ending or reducing as soon as possible their participation by substituting nationals of other countries or by making technological changes.

Then it says:

The appropriate committee of the Congress shall promptly hold hearings on each report of the President and report to the Congress any findings, conclusions or recommendations.

I cite this language because it has built within it the initiative that is required; in other words, it is self-starting.

Once the President has submitted the report, and he must do it every 6 months, he can do it the first month but no later than 6 months, once that is submitted to the appropriate committee of the Congress, then that committee must promptly hold hearings and make its recommendations.

So we have a built-in safeguard, and I want to assure the Senator that as one Member of the Senate Foreign Relations Committee, I take that language on its face.

The word "promptly" means exactly what it says. The President must make his report in written form.

The committee of the Congress can offer a concurrent resolution to cut off at any time or to make any other adjustments or recommendations—to cut off the number, reduce the number, or pull them out. All of that is there. I believe that this legislative history that we develop will even more succinctly and precisely define it.

Mr. MATHIAS. I would like to respond very briefly to the Senator. As he says, the language is self-starting. That is the one point where I have trouble following the Senator. There is no such thing as self-starting language. The language is here, the machinery is made available here, but it will not be self-starting. It will take responsible Members of the Senate to operate it.

Mr. HUMPHREY. The Senator from Maryland is one of those responsible ones. What I meant by self-starting, and I shall not take time, is that it says, "The appropriate committees of the Congress" and I imagine this would be the Senate Foreign Relations Committee and Armed Services Committee, "shall promptly hold hearings on each report and report to the Congress their findings."

Mr. MATHIAS. What I was saying, and I want to yield to the Senator from New Jersey, is what I am reaching for is the personal assurance of the Senator from Minnesota, whose word is good, and the word of the Senator from New Jersey, whose word is good, and the word of other members of the Foreign Rela-

tions Committee, that they will actually make this machinery work; that they will not consider it is self-starting; that they know somebody is going to have to push the button if the occasion arises.

Mr. HUMPHREY. I assure the Senator from Maryland from the point of view of the Senator from Minnesota that I will give him my word that if there is any delay, we will charge the battery and it will be self-starting.

Mr. CASE. If the Senator will yield, I would like to repeat that assurance for myself. I know that all members of our committee, and Senator JAVITS can speak for himself, feel exactly the same way. In addition, let me say this: It is self-starting in the sense that any Member of this body or any Member of the House, one Member of Congress, can put into motion this machinery if through any mischance the committees, or any of the members thereof, should fail in their duty in this respect. When any such resolution is introduced by any Member of either House, it has to be considered within 15 days by the appropriate committee and reported out promptly. A time is fixed for that, too. It is within 15 days.

Mr. MATHIAS. Congress cannot be the hostage of a committee that is unresponsive.

Mr. CASE. It is not a hostage of a committee. The committee must report within 15 days. The body which that committee serves in must act within a definite time, which is fixed here at 3 calendar days, unless by the yeas and nays they extend that time. This is automatic upon the initiative of any single Member. So in addition to the assurance which I repeat, because I would not want to have any doubts in the Senator's mind of my own personal commitment to his proposition, which I agree with fully, I think that this is more than amply covered.

May I say that in view of the coverage, which is so clear, in view of the safeguards built in which can be brought into action by any single Member of Congress, of either House, it seemed to us wise not to put a terminal date on this, because we do not want any implication that we are in this except for the duration. We are not in this for a 1-year period. We are in this for as long as is reasonably necessary and so regarded by the Congress.

Of course, we have pointed out the section which makes it possible for the thing to be terminated upon action by the Congress, initiated in the same way, with the same privilege of any Member to bring it to the attention of Congress and to require action.

Mr. MATHIAS. The Senator knows I share with him the concept of as long as it is needed. That is why I have called this amendment the annual renewal amendment, and not termination.

Mr. CASE. I appreciate that.

Mr. MATHIAS. I would appreciate the views of the Senator from New York, who is not on the Foreign Relations Committee, but who is the principal architect of the War Powers Act.

I would like to know whether he feels that the resolution as it stands preserves the constitutional control that the Congress ought to have over a situation of this kind.

Mr. JAVITS. May I say to my colleague in this particular respect I feel a special responsibility. I have worked on this resolution for a considerable time. I have done it in the greatest good faith, believing that this will mark the turn to peace, away from a drift to war. Therefore, I feel a special responsibility to see that it works, having devoted myself to this concept as a way out of a wicked dilemma.

I have the deepest sympathy for what Senator ABOUREZK said on that score in this sense: We may disagree on the history, we may disagree on the facts, we may disagree on the floor, but I feel exactly as I know he does underlying his own views, in the words of Golda Mier that her heart breaks as much when an Arab boy is killed or injured in war as it does when an Israeli boy is killed or injured in war. So I have a depth of feeling about this matter.

I can assure the Senator that I will be a faithful, honorable, and highly diligent guardian of what our country is doing in this regard, which is designed to facilitate the peace.

May I say, too—and I thought it was rather simplistic—to those who try to lay side by side our experience in Vietnam with this resolution, aside from all the other points which have been pointed out this is welcomed, invited, asked for by both sides. We must remember that we have learned a lot, and there has been interposed between the terrible experience of Vietnam and now the war powers resolution which gives us the power. The Congress does not have to wait 60 days, it does not have to wait 1 day, similarly by concurrent resolution, to pull troops out of any situation in which we do not want to see them involved.

Therefore, the technique adopted in the war powers resolution to deal with the concurrent resolution, as so very well described by Senator CASE, is the tightest that I and other experts were able to invent. It is far more strong than that under the Reorganization Act, which has been our classic use for accelerating consideration by the Congress. It goes even into the detail, if the Senator will look at section 7(d) of the war powers resolution, which is incorporated in this resolution by reference, as to regulate the number of days in which we can have a conference. That is the way we wanted it. So the toughest possible stand on vigorous congressional action has been introduced here.

May I say to the Senator that what he is trying to do, which is entirely understandable and even laudable, also must face what we have been contending with right along. The purpose of this is to move toward peace. The purpose of it is to also get an opportunity, an interregnum, in which we might move toward peace. Therefore, the fact that it is based upon the duration of the agreement itself—in other words, it is the same 3-year commitment—but we do not say so, we do not limit, conduces to our good faith of making this a stimulating effort for peace, while the reassurance to the Congress and to the Senator from Maryland is contained in these absolute provisions that enable one Member to set in motion a course of action with the greatest celerity which can be looked at any time, not with any implication that it is going to be 3 years, which might come from the Senator's amendment, to terminate this responsibility.

Mr. MATHIAS. Could I ask the Senator from New York one final question? Would he feel that, in light of the provisions of the War Powers Act, we are in any way restricting our options to terminate by the language which appears on line 10 of page 2; that we can terminate it if the continuation of their role is no longer necessary?

Mr. JAVITS. We can terminate it, in my judgment, absolutely and with the greatest celerity. We have all of the advantage and none of the disadvantage, in respect of what we are trying to effectuate, of the fixed date. Yet we have all the advantage of being able to call it off overnight. After all, we have to have a vote anyhow. The Senate can manifest its will and the House can manifest its will any moment we feel it is desirable. The criteria, which are really self-imposed by us, are so open. For example, continuance of their role is no longer necessary. Well, it may no longer be necessary because we do not want them there, because we do not think it is necessary for our country.

Mr. MATHIAS. That is our determination.

Mr. JAVITS. Exactly. Or because we do not think they are necessary in the cause of peace. It works both ways.

Mr. MATHIAS. Or that it is necessary in the interests of the welfare of our country.

Mr. JAVITS. That we pull them out, exactly.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. MATHIAS. I yield.

Mr. DOMENICI. I commend the Senator from Maryland. I have been listening attentively to the debate today and yesterday, and I support the resolution.

However, in my short time here, I would say to the distinguished managers of this bill, it has seemed to me that every time we have a serious matter, we end up the last night with no time for Senators to vote on amendments, facing a situation where we are not going to get a law because the House of Representatives is out. It happened to us on the Voting Rights Act, for example. We could have improved that measure considerably, and there were a number of Senators who were interested.

I do wish to say, for all the excellent work of the committee, there would have been a very close vote on whether or not the version of the Senator from Maryland or that of the Senator from New York would be accepted, had we had the opportunity to vote. But we are not going to get a chance to vote on that. The Senator from Maryland will either withdraw his amendment or it will be tabled.

I think there is a serious difference between what the Senator from New York proposes and the explanation, not only from the standpoint of some Senators, but from the standpoint of the

American people. It would have been far more palatable to them, and, as I understand it, in no way destructive of the other agreements that might be implemented, if we approve them; nor would it be violative of the opportunity for acceptance, if we had done it in the manner the Senator from Maryland has suggested. I do not think any of us could stand here and say that was not so. The President of Egypt could have come here and been just as happy—talking about the concern of the Senator from Minnesota—whether we had used the other version or this one.

But I think the American people would clearly have understood that as a matter of fact we are going to look at it on a regular basis, and they would have understood that far more readily than they will the open-ended concept, even with the review mechanisms in it.

I do not deny the Senator's enthusiasm or good motives, nor doubt that what the Senator has described will as a matter of fact occur. But somehow or other, when we have these open-ended resolutions, we find that what we thought, what we planned, and what we enacted in the past just was not enough. On the emergency energy bill, for example, we had provided 5 days to turn down the President. We had never thought of a filibuster, and it turned out to be a waste of 5 days.

We will profit by what we learned from that one next December. But might we not learn in this case in the future that the approach of the Senator from Maryland might have better satisfied the concerns many Senators have expressed here as well as the concerns of the American people?

So, from my standpoint, while I shall support the resolution, I think it is time we begin to understand either that our amending process has some merit, or that we are abdicating to the people in committees in toto, as we are today, not being in any way critical of the committee, they having done a splendid job; but I do believe this amendment would have done a far better job. I commend the Senator from Maryland for suggesting it.

Mr. MATHIAS. I thank the Senator for his kind words. I wish to say that he has anticipated correctly; I am going to withdraw the amendment, but not on the ground he has suggested.

I have made a point, as I think the point was made by the Secretary of Defense when he tried to used the thieve-and-borrow-back procedure against Congress several years ago. The point is made by history; the point is not made tonight.

As I say, I am going to withdraw the amendment on a different ground: the ground of the solemn assurances that the Senate and the country have had tonight from the Senator from Minnesota, the Senator from New Jersey, and the Senator from New York, their personal assurances and the assurances they make on behalf of the committees they represent. That is the ground on which I am going to withdraw the amendment, because there is a mechanism in this resolution different from any previous one in our experience, by which men of responsibility and trust can terminate these powers. Congress is not delegating as it has in the past.

So this is different because we have those assurances on which I think we can rely.

I think we all enter into this agreement about this resolution with a sense that we stand in the shadow of history, and that we assume grave responsibility when we do it.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The bill is open to further amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 3, insert the following new section:
"SEC. 6. It is the sense of the Senate that the President should attempt to negotiate an equitable share of participation by the countries of Western Europe, Japan and the United Nations in providing assistance to Israel or Egypt".

Mr. DOLE. Mr. President, I will not delay the Senate, and, following my explanation, I shall withdraw my amendment on the basis that I have discussed with the distinguished Senator from Minnesota and the distinguished Senator from New Jersey.

Mr. President, this amendment would simply express the sense of the Senate that the President should negotiate with other nations benefiting from the Egypt-Israel peace accord that they might share part of the $2.5 billion pledge of assistance included in the assurances given by the Secretary of State.

At the outset, the Senator from Kansas recognizes the importance of passing this resolution promptly—so that the peace agreement between Egypt and Israel will not be delayed. The Senator from Kansas also recognizes that section 5 of the resolution specifically disavows approval of any part of the $2.5 billion in foreign assistance.

But the Senator from Kansas feels that unless the Congress expresses some concern and reservation about the United States bearing the entire cost of $2.5 billion alone, the next thing we will see will be a request for a $2.5 billion foreign assistance bill.

PEACE IMPORTANT

This Senator is not opposed to peace in the Middle East—I am for peace; and I am not opposed to American resources being use to create that peace.

But there are many countries that benefit as much or more than we do from peace in the Middle East. It seems only fair that they should bear part of the expense.

And now is the time to express that concern—not after we pass this resolution, and not when we receive a request for $2.5 billion in assistance.

By expressing our concern about the foreign assistance aspect now in a timely manner, then hopefully the Secretary of State can begin negotiating with other governments before he sends up the $2.5 billion request, and not after.

TIMELY MATTER

Today, as the Senate extends approval to stationing of American technicians in the buffer zone, it is time that we look further down the road at those provisions for assistance which this body will be asked to approve in coming weeks. It is important that this issue relating to the financial aspects of U.S. "assurances to Egypt and Israel be addressed now, not later.

COMES OUT OF DEFENSE BUDGET

Mr. President, a $2.5 billion program of assistance to these two governments would have a significant impact upon our defense budget for the present fiscal year.

As I understand from the budget committee staff, the $2.5 billion, or a large part of it, would come out of our own defense budget. Since Congress has already cut the defense budget by $3.3 billion below the President's request, we would be faced with further cuts in defense, or with going over the budget target.

Beyond this immediate interim agreement, we can realistically conceive or later agreements—between Isarel and Syria, or between Israel and the Palestinian movement, for example—which may also call for commitments of aid to the adversaries. How much will we, as a Nation, be expected to bear alone as the "price for peace"? Surely the petroleum resources of the Middle East are just as valuable to Europe, to Japan, and to other nations, and they should be asked to bear a fair share of that price.

BENEFITS TO OTHER NATIONS

We should realize that political and military stability in the Middle East serves the interests of all those nations who rely heavily upon that area for oil and for trade.

The United Kingdom, West Germany, and France respectively imported 58 percent, 64 per cent, and 76 percent of their petroleum from the Mideast in July 1975. That was a total of 4.3 million barrels per day.

The Japanese imported 2.4 million barrels per day from the Mideast, which was 55.1 percent of their total imports in July 1975.

The United States by comparison imported only 804,000 barrels per day, or about 13 percent of our total imports and only about 5 percent of our total petroleum consumption from the Mideast nations in the second quarter of 1975.

So clearly, Western Europe and Japan stand to lose much more than we do from another war and another oil embargo in the Mideast.

There is also the benefit gained from keeping the Suez Canal open. I do not have tonnage figures for European and Russian shipping through the canal compared to the United States, but the closer physical proximity indicates the greater benefit to them than to us.

Although the U.S. Government commendably took the forefront in negotiating this initial settlement, peace is by no means important only to the welfare of this country. Just as the benefits of

peace will be shared by our allies, so should they share the expense of maintaining it.

I do not believe it is unfair or unrealistic to expect the governments of Western Europe, of Japan, and of the U.N. to participate in providing the valuable forms of aid which will strengthen this peace. An equitable sharing of the costs of this assistance among ourselves and our allies will prevent an undue economic strain upon our own budget, or that of any other nation. I believe that these allied governments will favorably consider a request by our President to join in this effort to maintain peace in the Middle East.

For this reason, I ask that my colleagues in the Senate join me in supporting at this time a declaration of intent to that effect, so that appropriate executive negotiations can begin immediately. In that way, we in Congress will be prepared to act knowledgeably upon an authorization request for such assistance at a later date when a request is submitted by the administration.

Recognizing the importance of passing this resolution promptly, the Senator from Kansas would think that it might be adequate for our purposes here today if the majority and minority managers of the resolution would give their assurances that they will work with the Secretary of State to share the expense of the $2.5 billion pledge with other benefiting nations.

Mr. HUMPHREY. Mr. President, I say to the Senator from Kansas that this type of sense of the Senate resolution belongs on the Foreign Assistance Act, and it would be most appropriate for him to put it there. When that measure is brought before the Senate, and then rereferred to the Committee on Agriculture on the food section, as the Senator will recall we do, I would more than welcome the amendment the Senator now suggests. I think that is where it belongs, and I assure the Senator of my cooperation to get it on the Foreign Assistance Act.

Mr. CASE. Mr. President, I join the Senator from Minnesota in that assurance, because it is a very sound thing. It is in line with present policy, and ought to be the position of the Senate.

Mr. DOLE. Mr. President, with that assurance, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, and was read for the third time.

The PRESIDING OFFICER. Does the Senator from Nebraska seek recognition?

Mr. CURTIS. Yes.

Mr. President, the resolution before us would grant the consent of Congress to the placing of American citizens in the Middle East to play a role in keeping the peace between Israel and Egypt. Regardless of the technical situation, the passage of this resolution would constitute an approval of the so-called Mideast settlement. In reality, it charts a course that is not limited to Israel and Egypt but is related to all the countries which have been involved in conflict in that area of the world. The sole criterion in deciding to approve or disapprove this resolution must be, "What is best for the United States?"

This proposal does not constitute a settlement of all the controversies over territory and other issues that exist in the Middle East. It is but a partial settlement. It has been described as an important first step. The fact remains that there is more left unsettled than is settled. If the United States is to be called upon to support a settlement that involves billions of dollars and the use of Americans, it should be one of two things. It should either be a complete settlement so that there would be no more war, or it should be a settlement wherein all of the countries involved agree to binding arbitration. This is neither.

It has been charged that the United States is in effect buying this peace agreement. This charge is not without some validity. We are committing ourselves to putting up some $9 billion over a period of 3 years, and the United States takes on an obligation to assist Israel in obtaining her needed oil supplies.

The PRESIDING OFFICER. Will the Senate kindly come to order? The Senate is not in order.

The Senator from Nebraska.

Mr. CURTIS. In addition to that, of course, we are called upon to provide American technicians who will serve in an official capacity along the Israeli-Egyptian border. The United States is asked to do these things when there has been no complete peace agreement nor has there been an agreement for all the parties involved to arbitrate.

Mr. President, to my mind it appears that the United States is making a commitment of enormous magnitude. If we impliedly agree to this settlement, the United States undertakes unilaterally to underwrite the military and economic situation in the Middle East. We will have to continue throughout the years or be responsible for the failure of the agreement. If this so-called peace agreement is worthy of a trial, it should not be undertaken unilaterally by the United States but by many other nations working through the United Nations. I am convinced that the approval of this agreement means that the taxpayers of the United States are committed to underwriting certain aspects of the economic and military situation in the Middle East amounting to billions of dollars for each year in the future. There is no termination of the U.S. obligation.

I believe the concern over the involvement of American technicians on the Israeli-Egyptian border is well-founded. I am aware that in some aspects it differs from Vietnam. Nevertheless, it is the beginning of the involvement of the United States economically, militarily, and with personnel in the entire Middle East in a unilateral way, under a situation where there is neither a complete peace agreement nor consent to arbitrate such an agreement.

Mr. President, I am not unaware of the heavy burdens that President Ford is called upon to bear. It is not easy for me to oppose the President of the United States. I must, however, be true to my own lights and feelings. Therefore, I shall vote against the pending resolution.

I yield the floor.

Mr. STENNIS. Mr. President, will the Senator yield me 3 minutes?

Mr. HUMPHREY. Yes.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I shall be quite brief indeed.

At the beginning of this proposal, I had understood that there would be something very much more definite about the extent of the military aid. We were prepared in the Committee on Armed Services to hold hearings on the facts, not formally, but on the facts with reference to the extent of the aid, not only in amount, but the nature of it, the extent that we planned to compare the list with what might be our own shortcomings for our own deficiencies, trying to be sure that no other nation would be preferred over our own needs. But perhaps no one was at fault. The list was not available.

We were never given any bill of particulars and never had any proof along that line because it just was not available, and as we understood it had not been worked out.

We were not seeking to interfere with the Committee on Foreign Relations passing on the authorization of this aid.

But when I got into the facts and announced that I felt like there was no proper alternative, that this resolution deserved my own support and I thought that of Congress, I said then and repeat now that I am not thereby committing myself to any particular amount of military aid. I doubtlessly support some.

But I realized a good while ago, Mr. President, we are not going to really practice any economy at home of consequence until we start practicing it also with reference to some of our aid programs. We have had to bear down on ourselves, and we will have to do the same with others.

These civilian all-volunteer technicians are in an entirely different status than the military mechanics we sent to South Vietnam back in 1954. These were military men in military uniforms and under military orders. They were there to assist South Vietnam militarily in its battle with the Vietcong and North Vietnam. The civilian technicians involved here are going in at the invitation and request of both sides and their responsibilities will extend only to manning the listening posts and making reports to both sides. They will be there as guests to perform technical services for both groups. Therefore, I see no parallel between having these men manning the listening posts and our first commitment of military men to South Vietnam to assist in keeping military aircraft flying.

In addition, we now have the War Powers Act on the statute books and Congress is now in a much stronger position to control the engagement of our men in hostilities than ever before.

My decision to support this agreement

is based on several important considerations. In the first place, if this agreement should collapse, renewed warfare involving Israel, on one side, and Egypt and other Arab nations on the other, would be virtually inevitable. Such warfare would again bring about a real danger of a confrontation of some kind between the United States and the U.S.S.R.

Second, if we should withdraw our support for the agreement and abandon our efforts to stabilize the situation between Israel and Egypt and other Arab nations, we can be sure that sooner or later we will find that the entire Middle East area, with all of its rich oil producing nations, will be completely lost to us as a source of the vital crude oil we need so badly.

Third, it is clear that some world power will exercise tremendous influence, if not dominance, in this area. If it is not us—if we withdraw and leave the Middle East to its fate—we can be sure that the Soviets will quickly move in, fill the vacuum and dominate the area. If the Soviets should gain control of the oil supply of the Middle East in addition to that of the Communist world, they would then control 60 percent of the world's petroleum reserves. This would be an intolerable situation for the United States and would seriously threaten our economy as well as our national security.

These are the primary reasons why I feel that it is in our best national self-interest to support the interim Sinai Compact.

This is not merely a question of doing something for someone else. It is also a question of doing something that is highly beneficial to us.

The safeguards in this joint resolution should be emphasized— the fact that the civilians shall be removed in the event of any hostilities between Egypt and Israel or at any time that the President or the Congress by concurrent resolution decides their saefty is jeopardized or that their role is no longer necessary.

I would also emphasize the far-reaching significance of section 5 of this resolution which states that this proposal "does not signify approval of the Congress of any other agreement, understanding, or commitment made by the executive branch."

Mr. President, I wish to make the record clear that no one should construe my support for this resolution as implying at this time my commitment to the full military assistance package for Israel or any other proposals or understandings that may be under consideration in the executive branch.

As one Senator, I will make a judgment on all future items as they are submitted and considered in the U.S. Senate.

I speak only for myself and not for the Committee on Armed Services with what I have reference to, with what I have said with reference to the military aid support.

I thank the Senator for yielding me time.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, for nearly 20 years I have kept on my desk in my Winchester, Va., office a statement by President Eisenhower.

He called the Middle East the most strategic area of the world.

Time has proved him right.

Not only is it the most strategic area, but it is potentially the most explosive.

In this region, a strong Israel is an asset to the United States.

In addition, Israel is a democracy that shares the basic principles, morality, and way of life of the United States.

For many years the United States has been firmly committed to helping Israel maintain her political independence and territorial integrity. The United States strongly opposes aggression by anyone in the area.

Secretary Kissinger has made some progress in bringing about a better understanding between the nations of the Middle East.

But stability and peace can only come to the Middle East by actions of the nations of that region.

As I see it, a peace imposed from without is unlikely to endure.

I have been to Israel several times, and to Egypt several times. Indeed, I was the first U.S. Senator to visit Egypt after the Six-Day War in 1967.

My last visit to Israel, during which I talked privately with most of the leaders of government, convinced me that Israel is willing to make reasonable concessions.

Several months later, I left Egypt with the same view in regard to leaders of that country. I was much impressed with President Sadat.

Before those visits and since, Secretary Kissinger has made some progress in bringing about a better understanding among the nations of the Middle East. But a lasting peace is not in sight.

Direct negotiations between Israel and her Arab neighbors will be necessary, if peace is to be preserved, and this can only be done if the territorial integrity of all nations is recognized, and a military balance in the Middle East exists.

This brings me to the Middle East interim accords negotiated by Secretary of State Kissinger. The agreements were reached by the American Secretary of State through shuttle diplomacy. Mr. Kissinger spent long hours and a multitude of trips to and from Israel and Egypt.

The Secretary of State deserves much credit for his industry and his determination.

But the agreements he has negotiated—and I use the plural—seem to put the United States squarely in the middle.

Indeed, it is proposed that the United States become the guarantor for future Middle East stability.

The Kissinger negotiated agreements require U.S. presence, undetermined amounts of American military and economic aid and, perhaps, other unforeseen responsibilities.

Secretary Kissinger has confirmed that approval of the joint resolution authorizing 200 Americans will trigger U.S. signature on the other documents.

Surely the other countries of the Middle East will refuse to accept terms less advantageous than those the United States has proposed for Israel and Egypt. The cost in aid alone could become astronomical.

In addition, after the Kissinger-induced accords between Israel and Egypt are approved by the Congress, will the future status of the Golan Heights, a sensitive and critical issue with Syria, require the presence of U.S. technicians? In response to my question to him, Secretary Kissinger said he did not anticipate it, but could not rule out the possibility.

The Kissinger-Israel-Egypt accords represent a small step forward. Though a small step, it could be an important one—or it could have unforeseen repercussions.

We must remember that the agreements involve only about 20 percent of the Sinai. Israel still holds the other 80 percent.

The agreements, of course, do not touch the difficult issue of the Golan Heights. They do not touch the West Bank. They do not deal with the problem of the old city of Jerusalem. They do not touch Sharm al-Sheikh. They do not address the Palestinian refugee problem.

It is important to realize that a difficult road lies ahead, with many twists and turns around which none can see.

In determining how I should vote on authorizing the posting of American citizens between two hostile forces, it seems to me I need to consider the entire package of commitments made by Secretary Kissinger, even though we will be voting on only one part of the package at the present time.

I find the decision a most difficult one, as this is only the first of many steps leading to an overall settlement. The process promises to be long and arduous.

Former Under Secretary of State George Ball, whose judgment in regard to U.S. involvement in Vietnam was much better than most, made an important point when he testified before the Senate Foreign Relations Committee. He said that a negative response by the Congress for the use of 200 Americans in the Sinai could bring an unraveling of Secretary Kissinger's painstaking work there.

But then Mr. Ball dramatized the dilemma when he questioned the wisdom of the total Kissinger package and Mr. Kissinger's piece-by-piece attempt at settlement of the Middle East problem. He warned that the use of Americans was "misconceived" and could create a new and "extremely dangerous stalemate in the Middle East."

Secretary Kissinger makes much of the fact that the American technicians will be civilian rather than military. This is preferable, I agree.

But it is a fact which I have heard none deny that our Government's obligation for the safety of the 200 civilians is equally as great as would be our obligation to 200 Americans wearing the uniform of our country.

The question of economic and military aid to the Middle East must also be carefully examined.

The total U.S. economic and military aid package for the Mideast this year will be around $3.5 billion, and the cost for 5 years will be around $15 billion. The secret agreement with Israel is open-ended, and without time limitation. In response to one of my questions, Secretary Kissinger conceded that additional dollars for Egypt would be a realistic assumption.

Another aspect of the aid proposal is the U.S. agreement to guarantee Israel oil equivalent to the supply it has been getting from Sinai oil fields, which Israel is returning to Egypt. The United States also is guaranteeing the money necessary to buy the oil.

The price tag at present OPEC rates is $350 million.

If for any reason Israel cannot obtain the oil, the United States has committed itself to provide the oil from its own supplies, and to guarantee transportation.

Israel also wants to build up her oil reservoir equal to 1 year's supply, and Mr. Kissinger has committed the United States to such an undertaking. The United States will underwrite the $700 million cost—and the cost of constructing the storage facilities.

It should be noted that a 1-year reserve of oil is an objective which the United States, at this time, finds it impossible to achieve. Proponents of a strategic reserve of oil for the United States are talking in terms of a supply for about 90 days—and even this goal cannot be reached immediately.

A part of the Kissinger package of commitments is discussions leading to a positive response to furnishing Israel Pershing missiles.

The Pershing missile with a range of 450 miles could strike at all of Israel's neighbors, including Egypt, Jordan, Saudi Arabia, Syria, and Iran.

This missile is designed for nuclear warheads.

Indeed, there exists no conventional warhead for the Pershing missile.

This weapon, then, could add a whole new dimension to the conflict in the Middle East, and it could force some countries to turn to the Soviet sphere to counter-balance the military escalation.

A true move toward peace would seem to lead to less weaponry instead of more.

Finding it difficult myself to reach an appropriate decision on the pending resolution, I do not fault anyone who may take a different view.

I should like to support the Secretary of State. His Mideast work has been painstaking.

But balanced against this, are fundamental facts.

The United States, by official action of its Government, would be placing American citizens between two admittedly hostile nations, and, in addition, assuming the role of Middle East policeman.

Also, the whole basis of the Kissinger package is an attempt unilaterally to buy an uncertain solution to but one of the many problems that must be solved if an effective peace is to be achieved in the Middle East.

I have great hesitancy in voting to commit the United States to direct, official involvement when the dangers ahead seem without limit.

The alternative is for the United States to continue to take a sympathetic interest, without assuming an official and direct responsibility.

I believe this is a wiser course, and I feel I cannot support the joint resolution.

ADDITIONAL STATEMENTS SUBMITTED ON SENATE JOINT RESOLUTION 138

Mr. BENTSEN. Mr. President, the Senate now has before it an issue which is enormously important, not only to peace in the Middle East but indeed to world peace and our own national security. I speak, of course, of Senate Resolution 138 approving the stationing of American technicians in a demilitarized zone in the Sinai Desert.

Since the accord was announced I have received hundreds of letters from constituents, both opposing and supporting the stationing of American civilians in the Middle East. I am well aware of the controversy this proposal has sparked across the Nation. After having given a great deal of thought to the proposal and after having carefully studied the documents relating to the agreement, I have decided to support placing American civilians in the Sinai. I endorse the committee's efforts to insure that approval of this proposal in no way shall be construed as congressional endorsement of any other commitment made to Egypt or Israel by the United States.

No one in this Chamber has less desire than I to see the United States become embroiled in another foreign military confrontation. But the role of the United States in implementing this agreement will not be a military one. It will be a role of peacemaker, operating an early-warning system in a fair and impartial manner. It will not be a role of taking sides with either nation against the other as in Vietnam. Rather, both sides have requested our presence, both sides have confidence in our ability to carry out our responsibilities there in a mature and even-handed fashion. It is a unique opportunity for the United States to play the responsible international role that our greater power status requires of us.

Mr. President, I would have preferred that the force of technicians provided for in the Sinai agreement not be composed solely of Americans. I would have preferred that it be a strictly United Nations force, or a force comprised of delegations from countries other than the United States or the Soviet Union. But it is clear that only an American contingent would have the full confidence of both Israel and Egypt. And without the presence of Americans, as an added weight to the United Nations buffer force in the Sinai, there would undoubtedly be no Middle East agreement.

I continue to be concerned over the ultimate safety of our citizens in the Sinai. But I believe that the Senate Foreign Relations and House International Relations Committees have developed language which will insure the safety of these technicians to the extent that it is humanly feasible. Not only will our citizens be physically located in an area of the tightest security but also they will be protected by a buffer force of 5,000 United Nations troops. In addition, in the legislation pending before us today, the Congress permits the withdrawal of these technicians if it determines that their safety is in jeopardy or their role is no longer necessary.

Congressional approval of the pending resolution will be an indispensable step toward encouraging compliance with the Sinai agreement. Certainly further progress in the Middle East and the eventual negotiation of an overall Middle East settlement depend to a considerable extent on the successful implementation by all parties of the recent agreement.

There is a direct relationship between implementation of the agreement and security in the Middle East. If the Sinai agreement is adhered to both in letter and in spirit, it will be proof that the moderate, pro-U.S. policies of Egyptian President Anwar Sadat work. The agreement will also enhance the national security of Israel, long a major goal of U.S. foreign policy and today an essential ingredient of a stable Middle East.

Our own national security will be strengthened as a result of the implementation of the agreement. We are all familiar with the enormous cost to our economy of the 1973–1974 Arab oil embargo. This agreement is an important step towards ensuring that that embargo will not be repeated. There are strategic advantages as well. In view of the growing Soviet naval presence in the Mediterranean and the number of sources of tension in that area—Cyprus, Turkey, Lebanon, Spain, Portugal—it is essential that Israeli-Arab tensions be moderated and pro-Western forces in the Middle East be strengthened. A strong Israel and a stable Egypt, both with strong ties to the United States, will be important anchors for a future Middle East settlement and a major bulwark against further Soviet expansion into the vital air and sea lanes comprising the Middle East.

In short, the Sinai agreement offers the United States an opportunity to play a unique and important role in world history, that of peacemaker. There are always a certain number of risks involved in such an undertaking but I am convinced the risks are minimal. This is an opportunity that we as a nation cannot afford to miss. Peace in the Middle East—and our own national security—are at stake.

AMERICAN TECHNICIANS IN THE SINAI

Mr. PEARSON. Mr. President. I support the entry of up to 200 American technicians in the Sinai.

Naturally, I am concerned that every precaution be taken to assure the safety and well-being of these American volunteers. Obviously, they will be withdrawn at the first sign of serious danger.

But, I am also concerned that our actions not be misconstrued by others. Senate approval of this narrow involvement is not tantamount to acceptance of the

much broader undertakings that the administration apparently supports.

It is important that the American public, the administration, Israel, Egypt and the rest of the world understand that by our actions the Congress neither approves nor acquiesces in anything but the limited U.S. role in the early-warning system.

In due course we will review the other issues and decide them on the basis of what is in the best interest of the United States and world peace.

Mr. President. Our overriding goal continues to be the preservation of peace in the Middle East. We have learned that the breakdown of peace there can seriously affect the rest of the world.

A new Middle East war carries with it grave dangers of worldwide economic chaos and superpower confrontation. All of our political and diplomatic skills are required to avoid such a disaster.

The use of American technicians is a first step toward a permanent peace. We must take it, for we cannot afford the alternative.

But the next step is for the parties in that area to take. Israel and Egypt must implement the Sinai agreements. Then the Arabs and the Israelis must constructively confront the difficult issues still to be resolved. Either at Geneva or through another mechanism, they must deal with the remaining Sinai territory, the Golan Heights, the West Bank, Jerusalem, and the critically important Palestinian question.

The United States has a role to play in this next step. But we must have the support and assistance of others. We are not the only country with vital interests in the Middle East. Others must now contribute their fair share—politically and economically—to peace in the Middle East.

Mr. President, our continued reliance on bilateral negotiations is not in the best interest of the United States. We must lend our support to peacekeeping efforts in an international context.

The use of American technicians provides time. And during that interval we should move toward multilateral problem solving and away from bilateral approaches.

The American technicians should be withdrawn at the earliest practicable time in favor of a multinational group. I urge the Secretary of State to work diligently toward that goal.

We have the assurance of the President and of the Secretary of State that the American people and the Congress have been told all. We must continue to insist on candor and forthrightness. That is the only basis on which we can properly judge foreign policy initiatives in the Middle East and elsewhere. And it is the only basis on which the American public will support our peace efforts.

Mr. BAKER. Mr. President, for over a month now, the Foreign Relations Committee has struggled with the question of Senate approval of the role of the United States in the recently negotiated Sinai Agreement. The deliberations of the committee have been long and not without controversy, and I sincerely commend the members of that committee for their professional devotion to the interests of this Nation during this difficult period.

In a similar vein, I would like to take this opportunity to commend Secretary of State Kissinger and Assistant Secretary of State Joseph Sisco for the many long hours they have spent in assisting the committee to reach a full and comprehensive understanding of this most important agreement. Their forthright approach in bringing this agreement to the Congress merits our appreciation and respect.

As we all know, the Sinai Agreement has raised serious questions, questions of national policy so serious, in fact, that I am tempted to suggest that what we are really discussing here is not the Sinai Agreement, but the Sinai Dis-Agreement. I do not say this critically, because the questions that have been raised are questions that deserve our serious consideration. They are questions that go to the very foundations of our national foreign policy and to the foundations of the relationship between the Congress and the executive. This is not the first time that these questions have arisen; and, perhaps, it is because we have not dealt more fully with them in the past that they have risen to plague us once again.

The first is the inherent difficulty in reconciling the mechanics of diplomacy and, particularly in this case, diplomacy in a highly charged and volatile atmosphere with the need for an openly-acknowledged and publicly-supported foreign policy. In this light, I want to make clear my unreserved admiration for Secretary Kissinger in persistently pursuing the diplomatic efforts involved in bringing Israel and Egypt at least one step closer to peace. In like manner, I admire the determination of the Foreign Relations Committee in their effort to ensure that the American people are fully apprised of the express and implied commitments involved in this undertaking. I feel that a sincere effort has been made to accommodate this need with the diplomatic needs of the Executive. However, I would hope that, in the interest of the much-needed spirit of cooperation between the Congress and the executive branches of our Government, the Congress will not lightly presume to disclose those documents that, for diplomatic reasons, the Executive would not have us disclose. The ramifications of such actions are far reaching and would not be in the long-term interest of either the Congress or the American people. The commitments of the United States arising under the Sinai agreement can be and should be made known to the public, but not in a manner that constitutes a breach of faith between the two branches of Government.

The second question, the importance of which also transcends the agreement itself, is the binding effect of the understandings between our Government and another concluded without the advice and consent of the Senate. I believe strongly that the concern of the Foreign Relations Committee in this area was legitimate and well justified, and I believe that the approach that they have taken, as evidenced by the resolution now before us, was correct.

The troubling ambiguities that continue to cloud the distinction between Executive agreements and treaties is a problem that must be resolved, and the difficulties we have faced in considering this agreement point out once again the urgency of this need. It is the responsibility of the Congress as representatives of the American people to establish the policies and goals to which the United States is committed. There can be no national commitment that is not an implementation of the pursuit of these goals in what we as the Congress perceive to be in the national interest. Therefore, let it be clearly understood that in agreeing to this resolution, we imply no further commitments on the part of the American people.

Finally, in asking that we pass this resolution, I would urge that we dedicate ourselves to the end to which this agreement is designed to bring us one step closer. We must continue to nourish and support the voices of moderation in the Middle East that have made this agreement possible. We must endorse whatever steps are necessary to ensure that the momentum and progress toward a comprehensive agreement is sustained.

Mr. TUNNEY. Mr. President, we are faced today with the difficult, and if I may say so, unpleasant task of passing judgment on one part of the Sinai agreement negotiated by Secretary Kissinger between Egypt and Israel. It is doubly unfortunate that this is perhaps the most controversial part of the agreement insofar as the United States is concerned. In the light of our experience in Vietnam, it is an issue which must receive the deepest scrutiny and be examined with the utmost of skepticism.

In my earlier statements on the interim disengagement accord, I stated that while I was cautiously optimistic about the agreement, I insisted on two safeguards. The first was complete disclosure of all provisions of the accords—including heretofore secret understandings. The second was the mandatory and immediate withdrawal of American technicians in the event of renewed hostilities.

Both those concerns have been met. The President has assured the committee in writing that all provisions of the agreement have been disclosed. And the resolution reported Tuesday from the Senate Foreign Relations Committee contains a mandatory withdrawal provision.

I think that the committee has done an excellent job in seriously examining this understanding and in creating a measure which makes the maximum contribution toward peace with minimum danger of American involvement.

Proponents of the plan to place American technicians in the Sinai truce zone say that our failure to approve this will mean collapse of the Sinai agreement and a new war in the Middle East in the near future.

But if there is one thing worse than another war in the Middle East it is another war there in which the United

States is directly involved. We must not approve an agreement which can bring that about.

Nor do we want to overlook what this agreement might cost. We are talking about $2.4 billion for Israel and some $600 million for Egypt in the months ahead.

The costs of the agreement are high. That certainly should not be a reason for sabotaging what might very well be our last real chance for peace in the Middle East. And we must weigh those figures in the light of what another war there would cost us.

The October 1973 war cost the United States almost $5 billion in the resupply of Israeli losses in the conflict. Beyond that, the October war produced an oil embargo that cost Americans half a million jobs and over 1 percent of gross national product. The embargo added five points to the price index and set the stage for the most severe recession since the Great Depression.

The financial costs of this agreement, high as they are, may be a bargain compared to the cost if it fails.

While we today are considering a single part of the Sinai pact, we must not overlook the fact that by approving it we would be giving implicit approval to the existence of that pact. The stationing of Americans in the Sinai is part of a package, a package that was negotiated with great difficulty by Secretary Kissinger between two hostile nations with a bloody history.

There are many standards by which Secretary Kissinger's arrangements can be judged. We do not have to be happy with each of those arrangements in order to consider the sum of them desirable.

The overriding question—and I cannot emphasize this enough—must be whether this agreement brings closer peace in the Middle East. If it does that, the risk to any of our citizens in that area is decreased.

There already are thousands of Americans and their families in the Middle East, both in official positions and in private industry. We must consider their fate as well as the fate of these 200 technicians.

From a strictly American viewpoint, should these American technicians be stationed in the Sinai truce zone? Obviously there is some risk. The troops of other members of the United Nations have suffered casualties there, largely from land mines left over from the October battles. If this move were merely to improve our own intelligence capabilities, I most certainly would vote against it.

But both the Egyptians and the Israelis are urging us to do this. Does that change the picture? It certainly makes it different from Vietnam where we went in on behalf of one side in an ongoing war and with no clearcut stand that would prevent expansion of our presence.

With both the Egyptians and Israelis agreed on the desirability of an American presence in the Sinai—and let us not delude ourselves, that is what we are discussing, not just 200 technicians—with both sides agreed, it should be noted that this is one of the few things those two nations have agreed upon in the more than 25 years of existence of the Israeli State.

Much has been made of the risk these technicians will undergo from attacks by Palestinian terrorists.

First, has there been a single attack by Palestinian terrorists on the U.N. forces already in the Sinai between Egyptian and Israeli forces? No.

Second, if the Palestinian terrorists want to bring U.S. intervention in the Middle East, there are much easier targets for them than a handful of technicians surrounded by armed U.N. troops in a remote desert.

There are, for example, hundreds of American children attending school in Beirut, the heartland of the Palestinian terrorists. Many American businesses base in Lebanon. American aircraft, both civilian and military, land at Beirut's airport, overflying Palestinian camps on the final approach.

If the Palestinian terrorists wanted to bring American intervention in the Middle East, they could have done it many times in the past. Indeed, warships, of the U.S. 6th Fleet several times have steamed offshore in readiness to protect Americans and American interests in Lebanon if the fighting there escalated to the point where such intervention became necessary. Bringing 200 technicians out of the Sinai would be a far easier proposition, if it came to that.

Americans already in the Middle East live in a far more vulnerable environment to attack than the Sinai desert.

I call your attention to the article in the October 6 issue of Newsweek in which Beirut bureau chief Nicholas Proffitt quotes his own 3-year-old son as asking "Guns finished, Daddy? Guns go home?"

American businessmen, educators, journalists and their families in Lebanon have been in far more danger in recent weeks than the technicians in the Sinai would be.

What it comes down to is this: Will the stationing of these American technicians in the Sinai contribute to peace and stability in the area? It is clear to me that it will.

Yes, there are risks involved. Landmines are a hazard. There is a possibility of assassination or kidnapping when the technicians are off duty in Egypt or Israel. But as anyone who has been there knows, the truce zone itself is one of the most peaceful areas in the Middle East.

I am not happy about the entry of Americans into the Middle East equation. It might be better if they were joined in their role by Russians, or Brazilians or Italians or whomever. But that is not what Egypt and Israel have asked.

If we do vote in favor of placing these technicians in the Sinai, we must be assured their numbers will not be increased without approval by this body. We must be assured that they will be pulled out of the Sinai as soon as the parties concerned agree their presence is no longer necessary.

And we must be assured that this new Sinai pact will not be considered the end of the road. We must move ahead toward a lasting Middle East peace.

It is significant that Syria is not happy about the new agreement, Syrian President Hafez Assad, in his own context, is an Arab moderate also. We must build our friendship with Syria and work toward a satisfactory arrangement on Syria's Golan Heights frontier with Israel.

King Hussein of Jordan has always been one of this country's staunchest friends in the Middle East and we must not neglect him because of that. I opposed the original terms of the transfer of Hawk missile batteries because I believed the arrangement to be out of all proportion to Jordan's true defense needs. I hope we now are arriving at a compromise that will avoid destabilizing the arms balance in that region while still meeting the valid defense needs of a good American friend.

A way must be found to satisfy the legitimate right of the Palestinians to a homeland of their own.

There must, always, be assurance of secure borders for Israel, our close friend.

If approval of American technicians for the Sinai truce zone will keep us moving in that direction and widen the opportunities for real peace in the Middle East—if we say, "Dr. Kissinger, we will agree but do not stop, keep things moving,"—then there is reason to approve this part of the pact.

While I will remain reluctant at any time to vote for the commitment of Americans overseas, I will vote in favor of the proposal stationing American technicians in the Sinai because I sincerely believe the opportunity for a lasting Middle East peace outweighs the risks involved.

Mr. President, I ask unanimous consent that two excellent editorials from the Los Angeles Times and the Washington Post be included in the RECORD following my remarks. I also ask for inclusion of an insightful article by Mr. Stephen Rosenfeld on the same subject, the approval of the Proposal for an Early Warning System contained in the Mideast Interim Disengagement Agreement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Aug. 24, 1975]

SINAI: ODDS-ON BET FOR PEACE

The new Sinai accord that is being shaped into final form as Secretary of State Kissinger shuttles between Egypt and Israel will involve the United States more directly, formally and expensively than ever before in the effort to bring peace to the Middle East. There are undeniable risks to that involvement. But there are also promises of considerable gains. We believe those benefits make this a worthwhile agreement that deserves the support of Congress and the American people

The major potential risk in the augmented US role, one that deeply concerns Senate Majority Leader Mike Mansfield among others, is the participation of the 150 or so civilian technicians who will be sent to the Sinai to operate the electronic gear that is designed to detect surprise military moves by either Egypt or Israel.

In a worst-case scenario, a sudden breakdown in the armistice could find these Americans caught in the middle of a new war, their lives in danger, the need to evacuate them requiring U.S. military intervention and conceivably American involvement in the fighting, a circumstance that could lead to

a Soviet response and the big-power confrontation that all fear.

In a world of uncertainty that could happen. But in a world of uncertainty anything can happen, and policymakers, recognizing this, can only play the odds, can make their decisions only on the basis of what is credible and likely. The odds favor a Sinai agreement that will hold. Those odds would be strengthened, we think, by the very presence on the ground of the American technicians, as well as by the incentives to keep faith with the agreement that will be provided in the substantial economic aid package for both Egypt and Israel that the Ford Administration will recommend to Congress.

Simply put, both sides by any rational calculation would lose infinitely more than they could hope to gain by violating an agreement in which the United States is serving as a guarantor, thus sacrificing their relationships with this country. Common sense and self-interest weigh heavily against that happening.

The advantages of a durable agreement to Egypt and Israel are many: reduced psychological tensions, U.S. aid, most of all the chance to go about improving their war-weakened internal economies. In those advantages to others inhere benefits to the United States.

The new Sinai accord is scheduled to run for three years. That probably means three years of no major fighting in the Middle East, because Egyptian participation is essential if any Arab-initiated conflict is to have hope of success. Three years of no-war probably means three years without an oil embargo by the Arab producing states, a matter of vital concern to the United States and other industrial countries.

None of this will be inexpensive for the United States. Aid programs running into the billions for Israel, Egypt and perhaps other Arab countries are being talked about. But compared to the manifold effects of a new war—not least on the world economy—the costs will be cheap.

The full extent of those costs and of the American role in the Middle East in the years ahead await explanations by Kissinger and the President once the Sinai accord is signed. It is essential that these explanations be complete and candid. Congress, which must approve of the American undertakings before they can be implemented, must be made wholly aware of all implicit and explicit commitments that have been made. From what is known the Sinai accord and the American role in it are clearly in the national interest. But the national interest also requires that all the facts be openly presented.

[From the Washington Post, Sept. 5, 1975]

MIDEAST: THE LARGER U.S. ROLE

(By Stephen S. Rosenfeld)

The new Egyptian-Israeli agreement makes conspicuous and probably irreversible what was only dim and tentative before—that deepening American engagement is the key to what promise there now is of bringing a settlement to the Middle East.

It remains no less vital than ever for Arabs and Israelis to adopt the new perceptions and habits that alone will allow them to live side by side in true peace. But pending their mutual maturing, which may take decades, there remains a need for a framework in which war can be avoided, tensions reduced and sub-issues defused.

Only the United States can provide such a framework. Only the United States has the standing with all the regional parties, including (just barely) coexistence-minded Palestinians, to act as a mediator. Only the United States has the military and diplomatic credibility to make promises and take on burdens in a manner satisfactory to the parties. Communist propaganda and New Left rhetoric notwithstanding, only the United States is free of the disabling suspicion that its motives are too impure.

Accordingly, the latest agreement must be seen for what it is: not merely as a personal achievement of the diplomatic legerdemain of Henry Kissinger; certainly not in itself as an increment of the "just and lasting peace" that is everyone's putative goal; but as an example of and a precedent for the growing American involvement that has become essential if the settlement process is to go on.

Uadav Safran of Harvard presciently pointed out in Foreign Affairs magazine a year ago that it was American commitments that had brought the first Israeli-Egyptian and Israeli-Syrian disengagement accords into being and that "additional and increasingly weighty American commitments" would be required and, he suggested, would be made to move negotiations forward on the much more difficult issues that remained.

Precisely in this mode of the United States' offer of civilian technicians, military and economic aid, and other assurances (not all of them yet public) collectively became the crucial ingredient that made possible the new agreement. "Mediation" does not even begin to describe the scope of the role the United States is assuming in the Mideast. Overseer, patron or guarantor are all better words.

I chatted with Safran the other day, and he said the American role will likely widen similarly in the Syrian-Israeli negotiation, which is the necessary sequel to the Egyptian-Israeli accord just concluded: An American Golan presence will let Israel withdraw further. With the precedent for Americans as a buffer now set, he suggests, the United Nations peace units—much more vulnerable to political juggling—may fade out. At the end of the line, he believes, lies an American-Israeli defense treaty that may appear in its context as an easing of the American burden, a welcome clarification of the U.S. role.

The search for a settlement must not be sidetracked by American election-year politics or uncertainties over who will be President or Secretary of State after 1976, Safran warned.

Will the Congress and the country go along with this major new development in American policy? I would say, yes, if . . .

If the administration properly explains the difference between participation in a military capacity on one side in a civil war in Vietnam and participation in a broad political role on both sides in a regional dispute in the Mideast.

If Americans come to understand that the great moral, political and economic stakes for the United States in the Mideast do in fact compel a significant American role—with all of its undeniable though, with care, reducible risks.

If the administration consults with Congress constantly and honestly so as to minimize the possibility that the new American Mideast role will fall victim to the strictly institutional conflict of Congress and the executive branch that has plagued policy in so many other areas.

If the United States grasps that an imaginative, expeditious and unrelenting quest for a settlement of all of the outstanding issues—none of which has yet been meaningfully addressed—is the only basis on which it makes any sense to head into this brutal thicket.

On tactics and details a hundred questions remain open: whether to go to Geneva, what to do about Jerusalem, and so on. But on grand strategy, Congress and the rest of us ought to look at the latest Israeli-Egyptian accord as the wave of a future in which, under the American lead, peace could eventually come to the Mideast.

[From the Washington Post, Sept. 3, 1975]

THE MIDEAST: A CHANCE FOR PEACE

Secretary KISSINGER: I think it gives peace a chance in this area, and the consequences the U.S. pointed out repeatedly of stalemate are simply unacceptable.

President FORD: I am sure there will be some critics, but I think in all honesty they have to understand what the alternatives would have been.

Secretary KISSINGER: Exactly, Mr. President. That is the problem, that the continuation of the stalemate would have had both military and economic consequences for the world—that we had to do something.

That exchange was all but lost in the torrent of hyperbole and general bonhommie that poured forth in the tape-recorded telephone conversations conducted by President Ford with Secretary of State Kissinger, Israel's Prime Minister Rabin and Egypt's President Sadat in celebration of the latest Israeli-Egyptian disengagement agreement on the Sinai. But it seems to us to sum up pretty well what has—and has not—been accomplished by Mr. Kissinger's tireless labors and by the commendable willingness of both the Israelis and the Egyptians to accept some risks for the sake of further movement away from increased tension and instability in the Mideast and toward a comprehensive settlement. It is idle to speculate about which party got the better of an intricate three-cornered deal which combines Israeli territorial concessions with Egyptian political commitments and American pledges of military and/or economic aid to both parties, with all the elements delicately interlocked and some still secret; one can only assume that agreement was reached because both parties were satisfied that they were getting all they could in a situation where concessions from both sides were not easy to come by. Similarly, it would be silly for anybody to be impressed, at this stage, by the President's loose resort to superlatives. There will be ample time for history to judge whether this accord, which differs only in degree from the earlier disengagements on both the Syrian and the Egyptian fronts, is a "great achievement, one of the most historic, certainly of this decade and perhaps in this century," as Mr. Ford would have us all believe. This is one of those flights of rhetoric that Presidents seem to be unable to resist when they are trying both to sell something to Congress and to prepare for an election campaign.

Still, it would be useful, in our view, if the impulse to oversell could be resisted in this case for the very reason suggested by Secretary Kissinger. "The consequences of stalemate," he said, "are simply unacceptable." What he might have added is that the consequences of stalemate, at any point short of a final Mideast settlement are unacceptable—which is to say, they will be no more acceptable in the months and years ahead than they were in the months leading up to Monday's interim accord. Nobody can be certain, of course, what would be the consequences if there was no further progress with respect to the Israeli-Syrian front on the Golan Heights, for example, or with respect to the West Bank. What is clear is that these issues remain unresolved, that the grievances of the Palestinians are still unanswered, that the Egyptians have reclaimed no more that a fraction of their Sinai territory, and that continuing stalemate on these matters will swiftly create a circumstance little different from the one that Mr. Kissinger described in defense of Monday's interim agreement: a circumstance threatening "both military and economic consequences for the world that we had to do something about."

That, it seems to us, is the real significance of the latest Sinai disengagement agreement. For if the U.S. felt a heavy obligation to break the statement of the past few months,

it has incurred an even heavier obligation under the terms of that agreement to promote the sort of comprehensive Mideast settlement that would put an end to stalemates in the area, once and for all. A case can be made, of course, that the President and Mr. Kissinger had no right to deepen the American involvement by agreeing to deploy United States civilians in the Sinai desert to monitor early warning devices, and by making American military and economic assistance so integral a part of an accord between Israel and Egypt. No doubt that issue will be sharply debated in Congress, judging from the firm opposition already announced by Senators Mansfield and Jackson. But it will not be, in our view, a very profitable debate. For one thing, the Vietnam analogy so loosely invoked against the dispatch of civilian technicians is scarcely applicable to a purely non-partisan peace-keeping mission requested by both sides. For another, the Congress is not being offered a narrow choice; to oppose any part of this interconnected agreement would be to torpedo it altogether, and that is not something that very many members of Congress are likely to want to do.

So we would hope that the debate in Congress and in the administration will turn quickly to what comes next. Should the United States take the lead in reconvening the Geneva Conference? Should this country advance a comprehensive settlement plan of its own? How can American diplomacy best be brought to bear on all the participants? How much leverage is left to the United States now that so much in American military and economic assistance has already been firmly pledged? These are the questions that will have to be answered, once the welcome-home ceremonies are over and the claims of historic achievements have been fully aired. For what has been achieved is no more than a thoroughly welcome—but temporary—foreclosing of an intolerable alternative. And what has been provided, as Secretary Kissinger correctly stressed, is no more than a "chance" for peace.

Mr. MORGAN. Mr. President, after a great deal of soul searching, I have decided I shall vote for the resolution to station observers in the Sinai. There is no doubt this is one of the hardest decisions we have had to make. In order to decide this question with any real peace of mind, we would have to be able to see into the future, and we cannot do that—especially not in the Middle East.

Frankly, I do not like the alternatives we have. In my opinion, this ought to be a United Nations responsibility. But it does not appear that in the U.N.'s present political climate it will take up this duty. Nor would Israel be well advised to accept United Nations observers as the key to their safety, given the widespread animosity to Israel among the U.N. membership.

They will have no observer but the United States. They trust us, and history has shown very recently that we are perhaps the only major nation they can trust.

Thus we have the alternatives of putting 200 American volunteers in harm's way, or of doing nothing. The first course of action of course does involve the possibility of conflict. But the second course of action, that of doing nothing, involves not only the possibility, but the certainty, of conflict. Two governments—in Egypt and in Israel—have put their existence on the line. Should they be repudiated, the war parties in each nation would surely take over.

This agreement attempts to take advantage of the slightest possibility that there can be peace in the Middle East. If we do not seize the advantage, and war results, there will not be the slightest practical advantage to us; it will be a course forced on us by a history of events which have been too long in the saddle, riding us.

Since the last Mideast war, three important things have happened. First, the level of armament on both sides has risen to a terrible level. A war would approach the scope of a holocaust, with terrible loss of human life. War would also mean an absolutely huge expense of materiel, which we will have to replace at an equally huge cost.

Second, a resupply operation of the type which saved Israel last time has become diplomatically inadvisable for us. We used our bases in the Azores, a Portuguese possession, to refuel the transport planes resupplying Israel. Now, with a revolution in Portugal, there is no party to the government there which is not hostile to Israel, and which would take lightly our landing Israel-bound planes there. With a Socialist or Communist government in Portugal, and with OPEC's economic blackmail of other European nations, we could well court the destruction of NATO with another Mideast war.

Third, the United States has finally begun to move toward a more even-handed foreign policy in the Middle East—one which recognizes that we have valuable economic interests in the oil-producing states. If war comes, that hopeful beginning will be given up.

These matters argue for our taking the course of peace, even if it is a dangerous course.

Now, I think the point is well taken that there is no real comparison between the situation in Vietnam and the one in the Sinai, or between the Tonkin agreement and the measure we are considering here. In Vietnam, we already had 16,500 soldiers in a shooting war, and the Tonkin resolution was an agreement to defend one of the parties to the conflict by force of arms. In the Middle East, we have an armistice in effect, and we agree to come in at the expressed invitation of both parties. Moreover, we come in to keep the peace, not by force of arms, but by observing and keeping both sides honest.

These people will be civilians, and they will be going in as volunteers. The State Department is already keeping a file of people—some of them my own constituents—who have said they want to go do this job. Besides, this is nothing new. We have had observers in the war zone since 1949, without a casualty, and we presently have 36 on the Golan Heights.

I do not intend to suggest by this that I believe this resolution cannot get us into some kind of trouble. It could very well do that, especially given the danger of unilateral action by terrorists. But we will be in trouble for sure if we do not act. As they say in my home State, we are between a rock and a hard place. The point is, when you are in such a position, you eventually have to choose one or the other. The resolution appears to me to be by far the better choice.

Mr. President, there has been a lot of talk about what will happen if the representatives of the "poor little" United States are swept aside in the onslaught of attacking armies in the Middle East. But I do not believe we are as helpless as we seem to think. It might do us good to stop thinking of ourselves as helpless pawns caught between opposing armies. It would be a lot healthier to see ourselves as the strong and mature person who steps between two adversaries and stops their fight, because both respect us, more than they hate each other.

Mr. TAFT. Mr. President, I support Senate Joint Resolution 138, and I support it in the form passed by the House of Representatives.

The basic necessity for approval of the resolution is clear. Without it, the Sinai agreement is abrogated. If the agreement is abrogated, our peace efforts in the Middle East will have failed and a new and intensified state of confrontation between Israel and Egypt will develop. Such a state of confrontation is likely to result in a new war which could, because of our existing policy of defining our interests in the Middle East as vital, lead to American involvement and a clash between the great powers. We already had a taste in the oil embargo of the economic effect—$10 billion, at least—of such a confrontation, even if it did not involve general hostilities. It is this basic and correct line of reasoning which necessitates approval of Senate Joint Resolution 138.

Several arguments have been advanced during this debate which, while they do not affect the above reasoning, do require some comment.

One is that the agreement creates a new level of American commitment in the Middle East. This is not true. The agreement is merely an expression of our long-standing policy of supporting Israel's right to exist and of working with all the regional powers to further a generally acceptable peace. In particular, the agreement merely recognizes our long-standing commitment to support as necessary to preserve the basic existence of the state of Israel—it does not create or enlarge that commitment. Our military forces have not been asked or pledged as part of that commitment. Those who oppose the agreement with this line of argument should, to be consistent, go to the root of their disagreement and ask for a reconsideration of our existing national commitment to Israel.

Another argument which has been advanced, in the form of several amendments which I have opposed, is that we should incorporate into Senate Joint Resolution 138 strict prohibitions of the executive's use of U.S. military forces in any way to protect the technicians. Really, this is not the question being debated. The fear is not that a Marine helicopter might be used to evacuate some technicians. The real fear is that the executive might deliberately misinterpret the agreement so as to use an attack on the technicians as a casus belli, as a pretext for sending in U.S. troops for purposes far larger than protecting the technicians. Let us admit it: That is the real fear being expressed in this Chamber by those raising this issue.

I do not share their fear, and the reason I do not is not naivete. I recognize how executives have, in history, engaged in this sort of manipulation of laws and of legislatures—Bismarck was a good example of a practitioner of such manipulation. So was Theodore Roosevelt. But I do not fear that happening at this time, in this country, in relation to this issue, simply because I know that we, in the Congress, would never permit such a subterfuge on the part of the Executive. I know that not only those who have raised this fear today, but many other Senators, myself included, would act immediately and decisively to call to account any administration which tried to initiate an American military commitment into the Middle East by subterfuge.

Such an action is just not politically possible. It is not possible in terms of the way the Congress would react; it is not possible in terms of the way the American public would react; it is not possible in terms of the War Powers Act, or of the legislative history of this joint resolution. And the legislative history is clear: There is no intention by Congress, directly or by implication, that anything in this resolution shall constitute reason or excuse for the United States to undertake to further its policy in the Middle East by force of arms. Using the Clausewitzian definition of military action as, "the furtherance of politics by other means," there is nothing in this resolution calling for military action. An administration would have to be deaf, dumb, blind, and stupid to attempt to twist this resolution into a justification for such military action. And it would not get away with it, if it did try it.

Mr. President, I return again to the fact that, all these peripheral arguments notwithstanding, the basic logic which requires our support of the resolution is clear. The same logic indicates that we have a responsibility to complete action on the resolution in both Houses of Congress as quickly as possible. The agreement must be implemented as quickly as possible, to avoid the danger of a possible breakdown of the agreement and a new confrontation. Accordingly, I will support the House language, so that we may avoid a conference and complete action before the recess. I expect to oppose all amendments, which in any case cannot affect the compelling logic behind the resolution. I suggest to my colleagues that they consider doing likewise.

Mr. RIBICOFF. Mr. President, I strongly support the proposal to station an American peacekeeping team in the Sinai. If approved by the Congress, this proposal will help protect and insure the peace that now exists between Israel and Egypt.

The interim agreement initialed last month by the Prime Minister Rabin and President Sadat represents an urgently needed first step toward a lasting and final peace in the area. It was not easy for the leaders of either nation to come to this point. Military and political questions for both sides were highly sensitive and it was only through imaginative and courageous statesmanship that an accord was finally reached.

Coming as it does after so many decades of frustration, bitterness and war, this agreement has brought about new opportunities for peace between the people of Israel and the people of Egypt.

The signing of the interim accord again proves that peaceful solutions to difficult problems can be found if there is enough determination, flexibility and understanding. This accord reflects the strong determination of Israelis and Egyptians alike to alter the course of their past relations.

It has always been the goal of the United States to promote peace wherever possible. That goal is the backbone of our foreign policy, whether in détente with the Soviet Union, in our foreign aid programs, or in the Middle East.

Now, an opportunity for peace between Israel and Egypt exists. Both sides have demonstrated their commitment to peace by compromising on difficult questions and finding common answers for agreement. It is our turn to show our commitment to our longstanding goal of peace, and any hesitation on our part will not only jeopardize the fragile peace between Israel and Egypt, it will also cast doubt on our commitment to such a peace.

Both Israel and Egypt are asking us to station an American peacekeeping team in the Sinai to monitor the peace that these two nations have achieved. The Senate Foreign Relations Committee has carefully investigated the terms of this request, and has recommended that the Senate act favorably on this resolution. The report of that committee states:

> The Committee wishes to emphasize that by approving the limited proposal for technicians in the Sinai the Congress does not in any way bind itself to any particular course of action with respect to future proposals.

Let me point out that Americans have been stationed in the Sinai as part of the United Nations peacekeeping force during the past few years. In essence, this proposal will simply separate the American contingent from the rest of the United Nations force. And the size of the United Nations team will be almost doubled as a result of this agreement.

Militarily, the fact that both sides will be using the same equipment and receiving the same information from common and impartial advisors will greatly diminish the possibility of dangerous misunderstandings. And the same sophisticated equipment that will warn both sides of any movement in the area will help protect the safety of the American contingent.

Supporting this proposal and helping to protect the peace in the Sinai is vital to our worldwide interests. Political stability will help create a climate in which the nations in that part of the world can begin to turn their attention away from war, and toward necessary economic development. Such a development will increasingly lead the major nations of the Middle East to seek the counsel and support of the United States. The successful conclusion of the agreement after so many months of negotiation has brought the United States new friends without costing us any of our old ones. With this peace, the United States has the opportunity to expand our special relationships in the Middle East.

The interim agreement has already helped to stabilize the political situation in the Middle East. Finding a lasting peace is a long and difficult path for two nations to take. But this agreement is the start of peace in the Middle East, and the United States must do whatever it can to help Israel and Egypt preserve that peace. I urge swift passage of the proposal before us today. It will be a vote of confidence, in the two nations that have committed themselves with their strong determination to establishing peace, and a vote of confidence in our own commitment to our goal of peace.

Mr. McINTYRE. Mr. President, I would like to express a sense of dissatisfaction with the way this resolution was presented to the Senate and the circumstances surrounding the votes we have had on the Sinai issue.

I believe the Sinai disengagement agreement could be a first step toward a lasting peace in the Mideast. I have also stated that untoward delay in congressional approval of the American technician provision of the agreement could result in undermining the shaky peace, and perhaps more importantly, undermining the stature of moderate Arab leaders like President Sadat. So I desired speedy congressional approval after there had been ample time for study of the relevant documents and the commitments outlined therein.

Many legitimate concerns have been voiced, Mr. President, about certain aspects of the Sinai agreement, and several amendments have been offered to alleviate these concerns. I agree with the proponents of the amendments that Congress must be informed of all possible commitments in the Mideast and that the approval of the technicians provisions should not be construed to commit the United States to any other actions. I, too, am concerned about the possibility of escalation of the U.S. role, and would have liked to see some provisions to lessen that possibility.

Unfortunately, Mr President, we were faced with a parliamentary situation that did not permit some of these worthwhile amendments. It was imperative that we adopt a resolution identical to the version passed by the House before it adjourned. Otherwise, a conference would have been necessary and final action delayed for at least 10 days. In that context, I believed it was more important to achieve prompt approval of the resolution. But I would hope that the Foreign Relations Committee will continue to consider the problem and, if necessary, report out further legislation to clarify some of the issues raised during the debate on this resolution.

Mr. MUSKIE. Mr. President, I stand in support of the proposal submitted to the Senate by the Committee on Foreign Relations to authorize the stationing of up to 200 U.S. civilian technicians in the Sinai desert. In my judgment, the American Sinai surveillance mission is an acceptable arrangement on behalf of the September 4, 1975, disengagement agreement between Israel and Egypt.

The United States, through the good offices of our Secretary of State, served as the honest broker in mediating the Sinai agreement between Jerusalem and Cairo. The accord's center piece is the placement of 200 American technicians

in a demilitarized zone for the purpose of observing the activities of Israeli and Egyptian military forces.

As an indication of the confidence in the United States, both parties requested the United States to perform not a military role nor be a participant in the conflict, but to act as an agent of peace. This is a high tribute to our Nation's position in the world. It is the very reason the Governments of Israel and Egypt did not ask the United Nations to man the early warning system in the Sinai.

Ironically, the international organization is not looked upon as a fair and reasonable peace party; only the United States has the prestige and influence over the conflicting parties to mediate. Both sides agree the other side would be reluctant to ask the United States to withdraw. This reluctance, I know, would not exist in Jerusalem if the United Nations force alone were in the Sinai. Egypt's President Sadat has referred to the American civilian technicians as being true "witnesses" to the agreement and Israel's Prime Minister Rabin has said he only trusts Americans in the demilitarized zone.

Monitoring an armistice on behalf of both parties is quite different from our recent Vietnam experience. In that tragic episode, the United States sided with one of the warring parties, leaving the other side actively hostile to our involvement. In this case, without the presence of Americans no Sinai agreement would have been possible.

Some Americans have expressed concern that the Americans posted in the demilitarized zone face potential harm by one of the belligerents. If bloodshed took place, the argument goes, it would lead to a deeper and deeper U.S. involvement. I understand such a concern, in fact I share it to some extent. However, our technicians will be in an area surrounded by 5,000 United Nations troops, protected from attacking armies or Arab terrorists.

Also, the joint resolution we are voting on authorizes the Preident to implement the U.S. proposal for the early warning system in the Sinai, subject to the provision American technicians will be removed immediately when an outbreak of hostilities between Egypt and Israel occurs or when Congress determines the safety of our personnel is jeopardized or their role is no longer necessary.

With regard to the issue of U.S. commitments, I am satisfied that Senate Joint Resolution 138 does not signify approval or disapproval by Congress of any other agreement, understanding, or commitment made by the executive branch. By approving this limited proposal for technicians, Congress does not bind itself to any particular course of action with respect to future proposals.

The Sinai arrangement is a major step toward a peaceful settlement of the dangerous and tragic Arab-Israeli conflict. Without the agreement, and the U.S. part in it, there is a grave risk of a renewed threat to war, a war which Middle East officials and observers agree would be devastating due to the highly sophisticated and powerful weapons both sides now possess. There have been four wars between Israel and Egypt since 1947, each has been deadlier than the last, none have settled the conflict, neither would a sequel.

In fact, another war, besides the destruction to cities and civilian populations, would mean another oil embargo, which would result in the disruption of the economies of advanced industrial countries, including our own, with the attendant inflation, recession, and unemployment. The State of Maine, for instance, could not afford such a development. Another war would also push the two nuclear super powers—the United States and the U.S.S.R.—toward renewed tension and confrontation.

Enhancing the prospect of peace and stability between two bitter belligerents in the Middle East is a vital interest of the United States. The Sinai agreement, which establishes an American-manned early-warning system, strengthens that cherished prospect. This diplomatic development is the best chance the American people have to influence peace in the area. Indeed, the accord is the first positive agreement reached by the parties to the conflict without having been immediately preceded by warfare. That is a favorable omen. It is necessary then to maintain a momentum in the Middle East peace process. This joint resolution helps. I shall vote for the proposal to place American civilian technicians in the Sinai.

Mr. CLARK. Mr. President, I vote in favor of Senate Joint Resolution 138 with the greatest reluctance. As I have repeatedly stated during the course of this debate, I have grave misgivings about the nature and extent of the commitments to which we may be binding this Nation in the agreements with Israel and Egypt.

Nevertheless, I am convinced that the sending of U.S. technicians to the Sinai may, indeed, be necessary if the Egyptian-Israeli disengagement accord is to be implemented. In the hope that this accord will lead—in the near future—to the overall settlement that is so necessary if we are to achieve peace in this troubled area, I shall vote for final passage of Senate Joint Resolution 138.

Mr. President, I ask unanimous consent that a speech on this matter by former Senator J. William Fulbright be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

BEYOND THE INTERIM AGREEMENT

(By J. W. Fulbright)

The significance of the Egyptian-Israeli interim agreement of 1975 is less in its specifications than in its implications, and these, as matters stand, are by no means clear. If the disengagement generates momentum toward further, more substantial agreements and toward a general settlement, Dr. Kissinger's diplomacy will be vindicated as successful and far-sighted. If, on the other hand, the agreement becomes an excuse for Israeli intransigence, extremism on the part of one or more of the Arab parties, and a holiday from statesmanship during the forthcoming American political season, the Sinai accord will stand—depending upon events—as something between a futile exercise and an outright disaster.

One point I cannot emphasize too strongly is that this interim agreement should not, in any respect, be approved until its full implications have been thoroughly examined by the relevant Committees of Congress. It is just 11 years since the Congress, under a misapprehension of its significance, approved the Tonkin Gulf Resolution under heavy pressure from the President and without thorough consideration, and the results were disastrous.

Given the extraordinary difficulties which had to be overcome to reach the Egyptian-Israeli agreement, the temptation to overcelebrate is natural. If arduous effort were the sole criterion of diplomatic success, President Ford would perhaps be justified in hailing the Sinai agreement as "a great achievement, one of the most historic certainly of this decade and perhaps of this century." If, on the other hand, we take the scope and sweep of an achievement as the measure of its significance, I do not think the Sinai accord is to be compared with, say, the Treaty of Versailles, the World War II peace treaties, or even more recent agreements with the Soviet Union on SALT or on the status of Berlin. Perhaps, where Arabs and Israelis are concerned, the truly remarkable fact is that, after decades of intransigence, they finally agreed on something, however limited. As Dr. Johnson said of the dog walking on his hind legs, "It is not done well; but you are surprised to find it done at all."

An objective evaluation of the agreement requires a close, dispassionate examination of its specifications—explicit and implicit, public and secret—and also for its costs. Equally if not more important is an appreciation of the interests and objectives of all those involved. Before commenting further on the interim agreement itself, therefore, and on what may be beyond it, I would like to suggest that I believe to be the central, crucial interests of the United States in the Middle East—interests which must serve as guideposts to a rational, responsible policy.

I. UNITED STATES INTERESTS

The catalogue of our interests is well-known and hardly contested: the survival of Israel; access to oil and the friendship of the Arabs; the avoidance of confrontation with the Soviet Union; and the strengthening of the United Nations as an international peace-keeping agency. What we evidently do not agree upon among ourselves is the priority of these interests and the appropriate means of reconciling them where they conflict. To the Israel lobby if I may use the newspaper term—with its extraordinary influence on our politics—the requirements of Israeli security, as judged by the Israelis themselves, are the commanding objective of American policy. In my view—which is a minority view in Congress and the press but which I have a hunch is more widely shared among the people at large—the commanding American interest in the Middle East is access to oil. Our interest in Israel is emotional and ideological; it is in our interests for Israel to survive because we wish Israel to survive. Our interest in Arab oil is a matter of vital economic necessity, tangible and urgent—more urgent indeed than is now recognized by any but a few energy experts.

There is little reason to hope—and much reason to doubt—that the trumpeted "Project Independence" in energy is going to succeed within the next five or ten years. One reason for this is political: as of now Congress simply does not have the will or capacity to adopt a rational program of energy conservation and of incentives for new production. Beset by political pressures, the majority in Congress seem committed to a national policy—if it can be called that—allowing rising consumption of a diminishing resource at artificially suppressed prices.

Since even the United States Congress cannot legislate into being resources which do not exist, the inevitable result has been rapidly rising imports. Between 1967 and 1974, while our overall oil consumption rose from something over 12.5 million barrels a day to more than 16.5 million barrels a day, the proportion of our overall oil requirements imported rose from just over 20 percent to almost 37 percent, while the proportion of overall imports coming from the Middle East and North Africa more than doubled—rising from 10.2 percent to 20.6 percent.

Of and by itself there is nothing wrong with moderately increased dependence on Arab oil. But Congress, while allowing the dependency to grow, at the same time gives all-out military and political support to the Arab oil producers' most feared enemy, Israel. Doubly reckless, Congress both refuses domestic conservation and jeopardizes foreign sources, and with this there is a great deal wrong. One does not have to be a master political strategist—one only needs an iota of common sense—to recognize that it is not prudent to allow yourself to become economically dependent on a foreign supplier while at the same time you pursue political policies guaranteed to antagonize that supplier.

We may denounce the threat of embargo as blackmail, and perhaps that is the right name for it, but it is more to the point to note that if the Arabs did not use their economic power in their national interest, they would be the only nations in the world—most assuredly including the United States—and perhaps the first nations in history—who declined to do so. In short, to give priority to Israeli interests would logically require draconian measures of conservation, such as high prices and rationing, while to give priority to domestic energy requirements would require an Israeli pull-back to the '67 borders and a comprehensive settlement in accord with Resolution 242. It is a hard dilemma, but it is inescapable.

Besides the political reasons, there are weighty economic and technological reasons why "Project Independence" is unlikely to succeed within the next ten years. The so-called exotic new sources of energy—nuclear fusion, solar and geothermal energy—cannot be expected to contribute in any important degree to our energy supply within the next decade. The more practical short term alternative to petroleum—coal and nuclear energy—will certainly be used in far greater quantities, but it now seems unlikely that they can come anywhere near filling our fast-rising domestic energy deficit over the next ten years. The opening of the Alaska pipeline, expected in 1977, will give a welcome boost to our domestic oil supply, and the decontrol of domestic oil prices—if it occurs—may provide incentive for new domestic exploration and production. But these too will be insufficient to fill the gap, all the more for the fact that any short-term gains in domestic oil production will be counteracted by the steady, rapid decline in our domestic natural gas production.

Not only is energy self-sufficiency a virtual impossibility over the next decade or more; our dependency on imported oil is almost certain to increase—unless we are prepared to pay the price of deep, long term recession in our national economy. There is an historically established link between economic growth and rising energy consumption. Perhaps some day the two can be decoupled, but that does not seem imminent. Undoubtedly too a depressed economy would have beneficial energy-saving and environmental effects. The price, however—high unemployment, under-financed education, deteriorating cities and rising crime—is clearly unacceptable, both socially and politically.

The alternative—the only alternative—is rising oil imports—which brings us to the question of where the imports are to come from. Throughout the 1950's and 60's at least two-thirds of our oil imports came from Western Hemisphere sources, primarily Canada and Venezuela. But Venezuelan production has peaked and is now declining, and Canada has adopted an official policy of phasing out oil and gas exports to the United States—a policy, I might note parenthetically, which has elicited no calls for the invasion of Canada. By 1975 only 60 percent of our oil imports were coming from the Western Hemisphere. At the same time—as already noted—the proportion of our imports coming from the Middle East and North Africa doubled between 1967 and 1974—rising from 10 to over 20 percent of total imports.

We may expect in the next few years to buy more oil from Nigeria and Indonesia and a few other countries, but most of our rising import requirement is going to have to come from the Middle East. The reason, quite simply, is that that is where the large reserves are; that is where production can be increased to meet our needs. And there is no other place in the world, so far as anyone knows, with comparable reserves—except possibly Soviet Siberia. A forthcoming Library of Congress study projects that within the next decade we will be getting about half of our total oil and natural gas imports from the Middle East.

Saudi Arabia possesses no less than 25 percent of the world's oil reserves, and another 22 percent lies beneath the territory of the neighboring countries of the Arabian peninsula. These countries—especially Saudi Arabia—have governments which greatly desire to cooperate with the United States for reasons of their own national interests. The Saudis have made it abundantly clear that they wish to trade their oil, in effect, for our technology, and further that they wish to invest much of their surplus capital in our economy, while relying primarily upon their association with the United States for their national security. The Saudis do not propose—nor should we seek—an exclusive association to the detriment of others. But they offer us an arrangement of special cooperation and mutual advantage which I have no doubt the French or Japanese, for example, would seize upon as a gift from Heaven.

If all this does not add up to something which deserves the name of "vital national interest," I cannot conceive of what would. And the importance of our good relations with Saudi Arabia and the other Gulf states is reinforced by the fact that as our short term import dependency grows, we are going to have to ask the Saudis to do certain things which are not necessarily to their own advantage. When the current recession of the Western economies ends and the demand for oil rises accordingly, soaking up OPEC's current spare production capacity, we shall have to ask the Saudis to take the lead in resisting large new price increases—as they are now doing—and in increasing oil production beyond the level of their own greatest advantage. As of now there is reason to hope that they will do both, but their future responsiveness to our needs will of course depend upon our overall good relations.

To this end it would seem prudent, to say the least, to reconsider our current attitude of ambivalence and suspicion toward the Arab oil producing countries. Instead of treating their prospective investments as a threat, we ought to welcome them as a boon to our economy. Even indeed if we do mistrust them, we should know from our own foreign investment experience that sizable assets in a foreign country serve more nearly as a hostage than as a threat to that country. Similarly, I think it both unfair to the Saudis and detrimental to our own national interest when the press and Congressional committees reap harvests of self-serving publicity from the fact that certain companies have sought to advance their business by the payment of what in some cases may have been commissions, and in other more accurately bribes, to certain Saudi nationals. It is rumored that the practices in question are not unknown here in our country. One wonders, therefore, whether the righteous indignation now being directed toward reforming the business ethics of foreigners could not more usefully be applied at home.

The deep suspicion directed toward Arabs in general—and toward the Saudis in particular—is not, I think, really rooted in questions of business ethics, or fear of the takeover of important segments of our economy. Nor, I suspect, is it rooted in genuine fear that a close association with Saudi Arabia and the other Arab oil producing countries will be bad for the United States. It is rather rooted, I suspect, in a deep-seated, perhaps not even wholly conscious fear that the association will be good for the United States—so very good indeed as to erode or undercut our all-out, emotional commitment to Israel.

It is at this precise point that our interests in Israel and in the Arab world intersect. Far from being separate and distinct, as we are often asked to believe, the interests involved are inseparable, so much so, in my opinion, that neither can be realized in any satisfactory, enduring way except with reference to the other. To state the matter in concrete terms: our emotional and ideological interests in Israel must be reconciled—not sacrificed but reconciled—with our inevitably growing economic dependency on the Arab oil-producing countries.

This necessity, if we are rational, need not strike gloom and fear into our hearts. The Arab states, for reasons of their own security and economic development—with perhaps one or two minor exceptions—are willing and even eager to cooperate with the United States. Nor is there any direct conflict of interests between the Arab countries in general and the United States. The only issue that sets us against each other is our continuing support, through military assistance, of Israeli occupation of Arab lands taken in 1967. The Arab leaders who play decisive roles in this issue—Presidents Sadat and Assad, King Khalid and Prince Fahd of Saudi Arabia, King Hussein, and I believe too Mr. Arafat—are rational and moderate men who are prepared to accept Israel within its 1967 boundaries with all appropriate foreign and international guarantees. "The Arabs," King Khalid said recently, "have learned to be moderate, reasonable. Gone are the days of Nasser's period when the Arabs threatened to exterminate the Israelis."

Our job is to get Israel to withdraw—not to sacrifice or sell Israel out, but to persuade her to a course consistent with United Nations resolutions, with the United Nations Charter itself, with declared American objectives such as the Rogers Plan of 1969, and with our own traditional principle of the right of peoples to self-determination. We do not have forever to carry the assignment out: if the interim Sinai agreement is not soon followed by other, more substantial steps—especially with respect to the central question of Palestinian rights—frustrations will increase and tensions will rise; moderate Arab leaders will either be radicalized or displaced; and a fifth war will follow. Now is the time of opportunity—and it may not soon be repeated.

As we concentrate our attention on the interim agreement, we should not overlook the seriousness of the tragedy which is unfolding in Lebanon. It has been estimated that as many as 3500 have been killed and 13,000 wounded in Lebanon since April. It is reported that radical terrorists have been infiltrated from various areas and that arms

and money are supplied to them from the most extreme, radical revolutionary sources. If Lebanon is torn apart by violence, and a radical left wing authoritarian government is set up, all the plans for present or future peace agreements will be seriously undermined. The seriousness of the situation in Lebanon emphasizes the urgency of a comprehensive peace settlement between Israel and her neighbors and the fact that we cannot afford to delay that settlement.

II. THE SINAI AGREEMENT

Measured against the danger and opportunity, and also in terms of our own national interest, the Sinai agreement can be represented as no more than a modest gain at best, purchased at an exceptionally high cost. It is not my purpose here, however, to review its specific terms, which have been much discussed in the press in recent weeks. Reluctantly, I have concluded that I would not wish at this late date, despite my apprehensions and reservations, to see the pact completely rejected, but I think it could be modified. I would hope indeed that all concerned would proceed to make the best of it—the Israelis by entering negotiations in good faith with Syria, and for something more than a "cosmetic" agreement; the Egyptians by carrying out their reported promises in good faith, especially those pertaining to matters on which the Israelis are most sensitive such as the Suez Canal, the boycott of firms which deal with Israel, and the suppression of obsolete propaganda. The United States, for its part, must not slide into a period of election-year complacency on the strength of Dr. Kissinger's "constructive ambiguities." Like the 1973 Paris accord on Vietnam, the artful generalities in the Sinai agreement are fraught with peril for the future—and not necessarily the far distant future—unless the United States acts promptly and vigorously to lead the Middle East parties toward a general settlement based on Security Council Resolution 242. In short, since the interim agreement has been made, what now follows it is of utmost importance.

Through the courtesy of the New York Times and the Washington Post, interested observers have been able to make a close study of many of the "secret" as well as public specifications of the Sinai accords. I point to certain potentially troublesome problems not with a view to undercutting the agreement but in the hope that care will be taken to overcome the dangers and difficulties involved. I might mention that although I would have preferred the use of United Nations personnel, I am not absolutely opposed to the participation of American technicians in the early warning system under the restrictions imposed by Congress—their immediate removal in the event of hostilities and the right of Congress to require their removal at any time.

My more serious apprehensions are directed toward two basic and potentially dangerous shortcomings in the overall agreement: one is the excessive, sweeping United States commitment to Israeli military, energy and economic needs as these are perceived by Israel; the other is what could be a de facto American acquiescence in the new status quo for an indefinite period, masked behind several less-than-constructive ambiguities.

It may be no more than a codification of long-standing practice, but there is potential trouble in the American promise, however qualified, to be "fully responsive" to Israel's military, energy and economic needs as Israel perceives them. The prospective sale—or gift—of Pershing ground-to-ground missiles seems particularly unwise and dangerous. Designed to carry either nuclear or conventional warheads, the Pershing has a range of 450 miles—sufficient to strike Cairo or the Aswan dam; all of Jordan, most of Syria and parts of Saudi Arabia and Iraq. Defense Minister Peres's pledge not to use nuclear warheads is welcome but insufficiently reassuring, owing to the high probability that Israel has in fact a store of nuclear arms, owing too to the fact that even a conventional rocket attack on Cairo or Damascus—or by the Arabs on Tel Aviv—would represent a radical escalation over the previous Arab-Israeli wars, greatly increasing the risk of Soviet-American involvement and confrontation.

At the very least Israeli acquisition of sophisticated new American weapons will add fuel to the Middle East arms race. Egypt and Syria already possess Soviet Scud missiles, shorter in range than the Pershing but still lethal and also capable of carrying nuclear warheads. Israeli acquisition of the Pershing may well provoke Arab countries to seek Soviet missiles of equal range and yield. And if Congress is as lavish as it has been in the past in providing sophisticated arms to Israel, and at the same time as unreceptive to the arms requests President Sadat has warned us to expect, we may succeed in driving Egypt back into close association with the Soviet Union—something the Russians can have little hope of accomplishing without an assist from the Americans. In any event it now seems probable that another Arab-Israeli war will extend beyond desert battlefields to population centers on both sides.

The asymmetry of our military aid policy is highlighted by the difficulties attending the proposed sale of Hawk ground-to-air missiles to Jordan. On the one side we are ready to provide Israel with a full panoply of sophisticated offensive weapons, including the Pershing and Lance missiles and the forthcoming F–16 aircraft. On the other hand the grudging, suspicious attitude of certain Senators and Congressmen toward the sale to Jordan of an effective air defense system has had the effect of insulting, humiliating, and perhaps alienating one of the post moderate, responsible and pro-American leaders in the Arab world.

The American commitment to sustain Israel's economy and satisfy her energy requirements is no less sweeping than the underwriting of Israel's military arsenal. The language of the specific economic commitments, as reported in the press, is provisional, but hardly so provisional that Israel will not charge—and be justified in charging—betrayal if we fail to deliver in all categories. It is technically true, as State Department officials have pointed out, that the Egyptian-Israeli disengagement agreement will remain binding regardless of American compliance or non-compliance with ancillary military, economic and political inducements. But as was discovered following the Paris accords on Vietnam, there is danger in this kind of sleight of hand—danger of misunderstanding and miscalculation, of bluffs being called and delicately balanced structures coming unglued.

I note with particular apprehension the United States commitment to provide oil to Israel even in the event of an embargo, and also to compensate Israel through foreign aid for the loss of the Abu Rudeis fields in Sinai. One wonders why it should be necessary to compensate a country for giving up resources which did not belong to that country in the first place. Consider too the possibility of a general embargo—one against the United States as well as Israel—in which event we would still be bound to make oil available to Israel, under the allocation formula of the International Energy Agency, and also help to transport it. A period of substantial oil embargo would not seem the ideal time for the United States to take on added economic burdens. Extrapolating from the experience of the 1973 embargo, a Library of Congress expert calculates that a six-months' embargo in 1977 would result in additional unemployment in the United States of a million to a million and a half and a loss in gross national product ranging from $39 billion to $56 billion.

In view of the fact that an embargo is only likely to occur in the event of another Arab-Israel war, the question arises whether we would provide Israel with oil regardless of the circumstances which gave rise to the embargo and to the consequent hardships imposed on the American people. Would we provide Israel with oil even if the embargo were precipitated by a war started by Israel? Under the agreement as it stands, it would seem we would be bound to do exactly that. How much preferable—and how much more responsible—it would have been if we had qualified this commitment, and use it as leverage, to discourage any possible Israeli preemptive strike.

The overall cost of the Sinai agreement to the American taxpayers is not easily calculated—among other reasons because the commitment—or provisional commitment—to "make every effort to be fully responsive" to Israel's military, energy and general economic requirements is open-ended as to time, amount and circumstances. The "memorandum of agreement" defines no conditions under which the United States would be released from its promises, even if Israel were to initiate a future conflict. The cost of the foreign aid commitments in the package, however, are more predictable. It has been widely reported that the cost of the Sinai agreement for this fiscal year will be about $2.9 billion—$2.3 billion for Israel and $600 million for Egypt. And Israel's Defense Minister, Mr. Peres, was recently quoted as saying that Israel will need $1.5 billion in military aid annually for at least four or five years. In addition there will be the cost of the commitment to pay for the oil Israel was drawing from Egypt's fields in the Sinai, at least $350 million annually. All these elements add up to a total of about $1.9 billion for the annual foreign aid package for Israel. Projecting this conservative estimate over a five-year period, total aid to Israel will come to $9.9 billion. When aid to Egypt at the level now being discussed is added in, the total direct cost over five years for this modest pullback, in foreign aid alone, will come to $12.9 billion. This turns out to be some $7.5 million for every square mile of sand to be given up by Israel, more per square mile than we paid for all of Alaska back in 1867. It staggers the imagination to contemplate what an agreement on the Golan Heights might cost. The cost to our economy of continuing uncertainty regarding access to oil is incalculable, quite impossible to estimate, but is surely very great.

The second basic difficulty with the Sinai accords is the far-ranging, potentially conflicting political and diplomatic promises made by the United States, which seem to add up to a *de facto* underwriting, for an indefinite period, of the new *status quo*. There would seem to be no *technical* inconsistencies in the language of the accords—only substantive ones which are not easy to reconcile, especially with regard to the withdrawal from the Golan Heights, a serious and difficult problem for Israel as well as Syria.

The Syrian Government has been denouncing the Sinai accords both longer and more intensely than their erstwhile Egyptian allies expected, even to the extent of threatening that Syria will not deal with Egypt as long as the "strange and disgraceful" agreement—as they describe it—stands. The Egyptians, embarrassed and discomfited, point wistfully to the United States assurance that it "intends to make a serious effort to help bring about further negotiations between Syria and Israel . . ." The Israelis, for their part,

note with satisfaction the United States assurance that in its view the agreement with Egypt stands on its own and that the Egyptian commitments are "not conditional upon any act or developments between the other Arab states and Israel." This is unquestionably read by the Israelis—and perhaps meant to be read by them—as a promise that the United States will not apply pressure on them to negotiate with Syria. Though not inconsistent in a purely technical way, the American assurances to Egypt and to Israel regarding Syria are scarcely reconcilable in substance. Behind the artful diplomatic language we seem to have come perilously close to having promised one thing to one side, something quite different to the other.

At least for public consumption the Israelis have made it clear that they expect no agreement with Syria, except perhaps a "cosmetic," which is to say, meaningless, agreement. Prime Minister Rabin declared in Jerusalem on September 17, "I see the possibility for an interim agreement in the Golan as very doubtful. And even this may be an understatement." And on September 5 he had said that there was "virtually no chance" for an interim agreement with Syria, among other reasons because the extensive Israeli settlements on the occupied lands "were not established in order to be evacuated." Perhaps secret arrangements have already been made for serious negotiation on the Golan Heights and the tough Israeli rhetoric is only a smokescreen for domestic opinion. But until and unless evidence of this is forthcoming, interested observers must base their judgments on what is publicly known. With this qualification, my own judgment is that prospects for a new, significant Syrian-Israeli agreement are bleak.

What now of step-by-step? Where and how is further momentum to be generated toward peace? In the basic Egyptian-Israeli agreement the parties solemnly affirm that their agreement is not final, that they are "determined" to reach a "final and just peace settlement." As we consider how this general resolve may be realized, it is pertinent to note that in the two memoranda of agreement the United States concurs with Israel that any further agreements with Egypt or Jordan should be part of a final settlement, and the United States further promises that it will continue to boycott the Palestine Liberation Organization as long as the PLO does not recognize Israel. Adding these conditions to Israel's adamancy about Syria, one does not readily discern where the next step is going to be taken, or how and in what form progress may be expected at a reconvened Geneva conference.

There may be promise in Secretary Kissinger's proposal of September 22 to the United Nations General Assembly that a "more informal multilateral meeting" be convened to "assess conditions," but the proposal needs to be thought through and spelled out, especially as to the central question of the Palestinians, which cannot be forever postponed and evaded, however convenient that might seem diplomatically and politically. Pending further clarification of the Ford Administration's future policy—or some as yet unavailable evidence that there really are going to be serious negotiations between Israel and Syria—one can only discern from the package of Sinai agreements a *de facto* American acceptance of the new *status quo*.

Important constitutional questions arise in connection with the American role in these agreements. In addition to the far-reaching American commitment to meet Israel's military, economic and energy needs, the United States is committed to "view with particular gravity threats to Israel's security or sovereignty by a world power," and also in the immediate future to "conclude the contingency plan for a military supply operation to Israel in an emergency situation." These are not absolute, unqualified commitments, but neither are the NATO treaty or our security treaties with Japan and others, all of which allow for action through our constitutional procedures. If these were thought of sufficient solemnity to justify treaties ratified by the Senate, why are the equally if not more far-ranging promises to Israel in the Sinai accords contracted through semi-secret "memoranda of agreement?" Was the Congress's vigorous and vaunted reassertion of its foreign policy powers restricted to matters of the late war in southeast Asia, or trade with the Soviet Union, or aid to Turkey? In short, does the constitutional principle vary with the issue? As Congress considers the various aid packages and other proposals connected with the Sinai agreements, I most respectfully urge my former colleagues to bear in mind the responsibilities which they themselves affirmed through the War Powers Act of 1973, the Case Act of 1972 requiring the reporting of all executive agreements, and the National Commitments Resolution of 1969 in which the Senate expressed its sense that "a national commitment by the United States to a foreign power necessarily and exclusively results from affirmative action taken by the executive and legislative branches of the United States Government through means of a treaty, convention, or other legislative instrumentality specifically intended to give effect to such a commitment."

The Ford Administration in general—and Secretary Kissinger in particular—are undoubtedly taken aback to see their Middle East handiwork criticized for its limited achievement and high cost. In their view—and I believe it to be accurate—they were doing all they could do within the confines of political reality, foreign and domestic. How, they ask, could Israel and the Arab states have been brought to a general settlement when it took all the diplomatic skill we could muster—and billions of dollars besides—to bring Egypt and Israel to this very limited agreement? How too, they must ask—and this with no small irony and vexation—can Congress express apprehension at the magnitude of our military and economic commitment to Israel when only five months ago 76 Senators signed a letter virtually demanding—and in effect compelling—these very commitments?

All of which points up one very crucial, central fact: that the key to peace in the Middle East is in the internal politics of the United States. As long as the Israeli lobby retains its extraordinary power to mobilize large majorities in Congress, the executive will be accordingly hobbled in any efforts it may care to make to bring the Middle East antagonists to a peace based on Security Council Resolution 242. As long as Congressmen and Senators are unwilling to face the political risk, possible loss of campaign contributions, and personal unpleasantness of well-organized pressure campaigns, we can expect little in the Middle East except deadlock, terrorism, tedious negotiations with little if any result, and in due course, sooner or later, the fifth Arab-Israeli war.

Perhaps, not for the first time, the American people are ahead of their leaders. A poll taken for the Gannett News Service in early September showed 64 percent opposed to the United States compensating Israel for the loss of Egyptian oil. A National Observer readership "plebiscite" taken in mid-September showed almost 77 percent opposed to the assignment of American technicians to the Sinai. A poll taken by Congressman McClory in his Illinois district earlier this year showed 60 percent favoring Israel's withdrawal to secure pre-1967 borders, as established by the United Nations, as a condition of continued American military aid.

Public opinion polls should not be allowed to dictate foreign policy, but neither should organized minorities. A rational American policy in the Middle East must be solidly rooted in the American national interest, modified so far as necessary by a sense of decency and compassion toward those who have suffered so much in this decades-long tragedy. The aspirations of all concerned—of Israel to a secure national existence, of the Arab states to the recovery of their territories, of the Palestinians to a national homeland, and of the United States and the rest of the world to a reliable supply of oil—are, I believe, essentially reconcilable with each other. Sacrifices will be required, to be sure, especially on the part of Israelis and Palestinians who have been rival claimants to the same land. But if they can bring themselves—or be brought by others—to reconcile themselves to each other's national existence, the way will be open to a new era of peace and unrivalled prosperity in the Middle East.

It is in this respect, from an American standpoint, that the Middle East differs so radically from southeast Asia. There never was anything good to be accomplished from the Indochina war, only a tragedy to be liquidated. In the Middle East there is more than a conflict to be ended and confrontations to be avoided. Great benefits are waiting to be reaped from a peaceful Middle East, and they can benefit the whole world. One can envision a whole new set of economic and political relationships through which the industrialized world would exchange technology for a steady and reliable supply of oil while developing new energy sources; the Arab countries would be free to devote their new wealth to the development of their societies; and the developing countries might benefit through development programs jointly supported by the industrial and oil producing countries. In such surroundings there would surely be a special role—in such fields as science, management and education—for those Middle Eastern peoples most noted for their rich human resources: the Jews of Israel and the Arabs of Palestine.

All this might seem like a distant, if not altogether fanciful, vision of the future. But it is not impossible, and if reason can be brought to bear, neither is it unrealistic. It is, I believe, the objective on which we must fix our view as we look beyond the interim agreement.

Mr. MONTOYA. Mr. President, the question which is before us today is a serious one: Congressional support and approval of Senate Joint Resolution 138, a resolution authorizing the President to implement the "U.S. proposal for the early-warning system in Sinai."

There has been heated discussion of this resolution in the press, and by the President and the Secretary of State in various speeches and statements. The Foreign Relations Committee of the Senate has held hearings and has finally reported this resolution out with their blessing.

I am sure that many of my colleagues share some of my feeling of concern about this matter. I have decided that I will support the resolution. I want to briefly outline my reasons for deciding to support this resolution in spite of my reservations.

American interests in the Middle East are clear. We must encourage the peaceful resolution of problems there. I have always supported our efforts to do that. As a part of that effort, I have strongly supported aid to Israel in her struggle to continue to exist as a democratic nation without harassment by her neighbors. I will continue to fully support our efforts to achieve that goal. This small nation has always been a friend to the United

States, and I am sure will continue to be a friend and an ally in the future, no matter what we decide here today.

I am convinced that this resolution will provide some additional confidence and support to Israel in this first step toward a final resolution of her problems with Egypt.

My reservations about putting the stamp of congressional approval on this agreement concern four issues: The dangers to American civilians who will be stationed in the Sinai, the possible misunderstanding in the world community about the extent of congressional commitment to the full list of agreements, the possible expansion of cost to the American taxpayer through later commitments of aid, and the danger which I see in the practice of using executive agreements as a too frequent tool in foreign policy.

Our experience in Vietnam has taught us that there are very definite limits to what America can do in international conflicts short of actual involvement in war. We know that "token" forces and "symbolic" commitments seldom provide permanent solutions to long standing disagreements. Moreover, we have learned through bitter experience the danger of committing the United States to either military aid or action through the use of secret Executive agreements or private assurances by the President or the Secretary of State. The fact that the President has requested congressional approval of this particular portion of the Sinai agreements is an indication that the administration is also aware of the inherent danger of such agreements. The President and the Secretary of State cannot act alone in matters which commit this Nation to international action or to the expenditure of tax dollars. By asking for congressional approval of this particular commitment, the President has taken a step in the right direction.

I do not believe that the technicians who would be sent to the Sinai under this agreement are in any way similar to the military advisers who were sent to Vietnam. These technicians will be civilians, they will be volunteers, and they will be neutral in their position and goals. For that reason, I do not feel that positioning these men in the Sinai at this time is a commitment by the United States which will involve us in future conflict in that area.

The Secretary of State has told the Foreign Relations Committee in hearings that other commitments in these agreements are "not legally binding" and that we are only bound to consult and not necessarily to accept the results of that consultation. He has indicated that these agreements are merely "formal reaffirmation of existing American policy." I accept his interpretation of those other portions of the Sinai agreements as being valid. However, it was with great reluctance that the administration revealed to the Congress the full text of those agreements. Other than the agreement relating to the establishment of the early warning system, there appear to be a whole complex set of understandings and informal commitments for aid to Arab nations as well as to Israel. This would mean the expenditure of American tax dollars.

Today we are being asked to approve only one segment of the total plan. By agreeing to this first segment, I hope that we are not opening the door to expected approval of all other segments. I want to make it clear that my approval of this resolution does not imply automatic approval of military aid to Arab nations who have consistently refused in the past to control Palestinian terrorists within their own borders or to recognize and negotiate with the State of Israel. I hope other Members will speak out to indicate that approval today does not include support in the future of aid to nations who do not now and have not in the recent past supported the United States in either international disagreements at the United Nations or in solving the difficult problem of controlling oil prices.

Finally, I think we should all be aware that the 200 men we place in the Sinai will be subject to criticism by one or both sides in this conflict if there is any failure of the system. I would much prefer that the United States not be seen as the sole "keeper of the peace" in this arrangement, and I am pleased that the United Nations forces will remain in the area to act as the official peace watch.

There is an additional danger to our civilian volunteers in this project. They will be vulnerable to attack by terrorist groups who have already threatened such attack openly. I think it is imperative for other nations in the world community to understand that an immediate and firm stand against such terrorist activity or terrorist threats in this situation would be the most helpful contribution which they could make.

I believe, Mr. President, that it is in the best interest of both Israel and Egypt to approve and implement their welcome steps toward peace. I hope that our contribution of help in manning the early-warning system will make it possible for Israel and Egypt to proceed. I hope that our continued efforts toward finding peaceful and permanent solutions will help to insure the territorial integrity of all nations in that troubled area, and will make it possible for us to begin to plan for economic rather than military aid to those Middle Eastern nations who need our help.

Mr. President, I will vote yea on this resolution. I hope I have made my reservations in this matter clear. Even more strongly, I hope that by taking this one step—admittedly a step which presents some dangers to us—we will be moving toward a resolution of the conflicts which have plagued this vital geographical area for so long.

Mr. STEVENSON. Mr. President, the provisional Sinai accord buys a little time and gains a few miles of disengagement in the Sinai. It postpones the next battle in what has been one long war since the 1940's. This provisional settlement has many of the earmarks of previous settlements in which the opposing sides were bought off and during the hiatus between battles, rearmed for the next one. So it was in 1967, 1970 and 1973. In each case the United States helped relieve the warring parties of the responsibility for settling their differences on a permanent basis by offering them tempting alternatives—alternatives that have been expensive to the American taxpayer and have escalated the quantity and sophistication of the weaponry, guaranteeing a higher level of violence in the next battle.

Time has disadvantaged Israel. It has disadvantaged the moderate elements in the Middle East, it has disadvantaged the cause of peace. After the 1968 war it was possible to piece together the elements of a comprehensive settlement—leaving aside the knotty question of Jerusalem which, in fact, might then have been left aside. Now the Arab world has acquired the oil weapon. The greater wealth is on its side. The Israeli economic condition has deteriorated. Its isolation in the world is greater than before. Its sources of financial support in the outside world are stretched thin. The Arabs have acquired a new degree of unity.

Jordan and Syria are composing a joint command. The PLO has been recognized by the Arabs as the agent for the Palestinians. And all the while the arms have poured in. Now war would be accompanied by another oil embargo, a world recession and quite possibly, by nuclear violence.

Time and a few miles in the Sinai could operate again against the cause of peace. Patience in the Middle East could continue to wear thin. The more radical elements would continue to gain the upper hand. Already this accord has isolated Sadat, endangering his political existence. He defends himself by imputing still more secret promises to the Secretary of State.

Time alone is not enough to warrant a greater risk of active U.S. involvement in the next Middle East battle—yet, that is what this accord is all about. Israel and Egypt upped the ante. Last time, Mr. Kissinger offered nuclear reactors. This time he has implied the involvement of U.S. forces, as well as more money and arms.

The step by step approach to peace in the Middle East is valid if one step leads logically to another, if the end result in view is a coherent and permanent settlement. If that was the prospect, the risks we are asked to assume would be worthwhile. But the documents to which the American people have been made privy, by accident or by design, and the public statements of the President and the Secretary of State do not encourage one to believe that there is any coherent plan for progress toward a final settlement. References to a possible resumption of the Geneva Conference are disconcertingly vague. References to a bilateral settlement in Syria made one day are discounted the next. If there is a plan—what is it? The pledge by the Secretary of State to the General Assembly of the United Nations that the United States would support "whatever process seems most promising" is not reassuring.

Is there at last to be an effort to win the cooperation of the other arms' suppliers and cut off the flow of arms to that troubled part of the world, creating at

last a climate for peace instead of for war? The Secretary has admitted there has been no such effort. This accord would appear to preclude it. It seems to commit more arms and more sophisticated arms to Israel, Egypt—and, independently, to Jordan.

This resolution assures that the United States will be in a legally tenable position to get its technicians out should their safety be jeopardized. I am also relieved that the resolution is specifically disassociated from other commitments made to the Israelis and the Egyptians as a "lubricant," as Secretary Kissinger has described them, to obtain the accord. It states that its enactment does not signify "approval of the Congress of any other agreement, understanding or commitment made by the executive branch."

But, unhappily, such language is little more than a nullity. The Congress does not signify its disapproval of apparent commitments to maintain Israel's right to free and unimpeded passage through the Straits of Bab-El-Mandeb and the Straits of Gibraltar. It does not disapprove the apparent commitment of the United States to support Israeli tactics and policies in the Security Council of the United Nations and at a Geneva peace conference. As soon as the Congress approves this resolution and the placement of U.S. technicians in the Sinai, the Sinai accord, all its parts, go into effect without congressional approval.

We have seen four documents but not the memorandum which the legal adviser of the State Department has submitted to the Committee on Foreign Relations which purportedly explains which commitments are legally binding and which are not. They should be made public, not only to help the American people understand how deeply we are engaged in the Middle East, but to eliminate ambiguities which may be misunderstood by both Israelis and Arabs. I regret that the amendment I cosponsored to declassify this memorandum was not adopted. It should have been made public by now in order to permit us to learn just what it is we are being asked to do.

We do not know the price tag in economic and military aid to both sides. It may be $15 billion over 5 years, perhaps higher. We do not know if the promise to discuss weaponry such as the F–16 and the Pershing missile is one the Israelis seriously expect us to keep. The Pershing is a destabilizing weapons system to be introduced in the Middle East arms race. It was designed to carry nuclear warheads.

We do not know if paragraphs 7 through 14 of the memorandum of agreement contain provisions which are binding or if, as the Secretary of State told the Foreign Relations Committee—they "merely engage the good faith of the United States." And how do we differentiate between a binding commitment, a legal commitment, and one that is morally binding, or one which merely "engages the good faith of the United States."

The Secretary of State says that the resolution we are asked to approve today is not linked to other understandings. But he also says that if we approve this resolution the way will be cleared to sign other documents which he says are not executive agreements, but will be submitted to the Foreign Relations Committee as if they were. So they are, after all, linked together. He says these statements of intention should "not be given a legal binding character which was never intended and is not inherent in them." And yet the administration has opposed such a statement in this resolution—anything that says the commitments are only statements of intention. In fact, the State Department memorandum reportedly says that many of them are binding—legally. The Secretary refers to "documents in the negotiating record which the administration believes are legally binding assurances, understandings or commitments." He says "many provisions are not by any standard international commitments" but that "this does not mean that the United States is morally or politically free to act as if they did not exist." So we have, evidently, at least a moral obligation on many accounts, a legal obligation on some, as if there was any practical difference. Where have we come if the United States is no longer to consider a moral obligation a commitment? Is not the engagement of "good faith" a commitment?

Such subtleties are typical of the Secretary of State. They are subtleties without meaning—intended to entrap but not to enlighten. They do not comport with one another. They are inconsistent. Their purpose is to entrap the Congress and other parties in the Secretary's web—without disclosing what the web is.

More than one expert witness at the public hearings this week has maintained that the language of paragraph 10 is at least as binding as that in defense treaties with the Philippines or the Republic of Korea which are also conditioned upon constitutional practices. The Secretary has maintained at the hearings that these undertakings are no more than an expression of the prevailing state of our relations with Israel, that they have changed nothing. Why, then, are they reduced to writing? The statement is disingenuous. The United States never had a commitment to supply Israel with oil, including a 1-year reserve. There is no purpose to this whole accord, except to make commitments, codify a policy and, therefore, limit U.S. freedom of action in the Middle East.

We do not have an informed appreciation of how the Israelis, the Egyptians and the other Middle Eastern states look upon these undertakings. It is all very well for the Secretary of State to say that they are not binding. But do the conflicting states take the view that they are not binding?

Mr. President, I have no difficulty supporting U.S. technicians in the Sinai. The analogy to the American advisers in Vietnam is imperfect. These technicians are invited by both sides to help maintain a peace, not by one side to maintain a war. But that, unhappily, is not the issue before us. By approving technicians, we trigger secret, dangerous and expensive commitments with no assurance that they will lead to the peace—and with, in fact, a large danger that they will lead to nuclear war. If I had it within my means to vote to approve only the technicians for the Sinai, I would do so. But that is not our option.

For the sake of a little more time, perhaps enough to take the country through the next election, the administration seeks to implicate the Congress and future administrations in a policy that restricts American freedom to do whatever is in its national interest in the future.

Mr. President, again and again in the debate today we have heard references to the Tonkin Gulf resolution of August 1964, when, as now, we were asked to support a commitment of far-reaching implications, imperfectly understood. The analogy is far from perfect, but is sufficient to raise the flag of warning. I submit it that we should also remember—and be warned by—another episode in that darkest chapter of American foreign policy: the Paris accords. "Peace is at hand," we were told, "the war is over, the guns are stilled." What a deception. We bought time with a meaningless accord with more billions in military aid. The Vietnamese people paid for it with tens of thousands of their lives. Later, much later, we learned of the secret commitments to President Thieu with which we bought his agreement. The war was finally ended for the United States because the Congress preserved its freedom of action; it voted to terminate U.S. support for the war. It was not implicated in support for General Thieu upon the terms agreed by Mr. Nixon—as subsequently disclosed. Mr. President, there is no similarity between the Thieu regime and the free Government of Israel. But this time the administration is seeking to involve the Congress—as it did not in the Paris accord. That is the similarity.

Mr. President, it is the habit of the Congress to go along. It went along in Southeast Asia. And it is doing so in the Middle East. But I will register my support for peace in the Middle East by voting against this resolution. This arrangement only buys time for another round of armaments on both sides, to which we shall be making a dangerous multibillion dollar contribution. It settles only the most easily settled of the outstanding issues. It relieves the warring factions of the immediate obligation of pursuing a genuine and lasting peace. It increases the probability of a more dangerous clash of arms than the last one. I do not believe this provisional accord is in the long-term interests of Israel or of Egypt, or of the United States. And I regret that the Senate was not afforded an opportunity to approve the Sinai technicians without far larger commitments—as Senators BIDEN, CLARK, HASKELL and I proposed.

Mr. PERCY. Mr. President, let us be candid and admit that there are risks for all involved in the Egyptian-Israeli Sinai disengagement agreement.

President Sadat is risking the good will of many Arab States at the expense of Egypt's long-acknowledged leadership role in the Arab world; he risks, as well, repercussions from Palestinian terrorists who regard even the smallest accom-

modation with the Israelis as a major betrayal of their cause.

Israel risks still more. Even though Prime Minister Rabin, his Cabinet and the Knesset have agreed to relinquish only about a sixth of the territory Israel occupies on the Sinai Peninsula, it is a critical sixth, including as it does the Mitla and Gidi Passes and the Abu Rudeis oil fields. Some observers have regarded the passes as crucial to Israel's defense.

Finally, of course, as Congress agrees to station some 200 American civilians in the passes to man electronic surveillance posts, the United States itself will be taking some risks. The primary gamble is that the Americans might come under attack, thus heightening the possibility of direct U.S. military involvement in that most volatile region of the world. It is not hard to imagine that, even now, Palestinian guerrillas are plotting ways to sabotage the prospective American surveillance effort.

To me, however, the question confronting Congress in this matter is not simply one of risk versus no risk. Ultimately it is a choice between risks: the danger of placing essentially unarmed Americans in the midst of armed and opposing forces half a world away versus the danger of doing nothing at all.

While there is simply no way to assure danger-free American participation in the Sinai accord, President Ford and Secretary Kissinger have sought to minimize the hazards both to our country and to our countrymen who would be actually stationed in the Sinai.

The contingent of U.S. observers will be strictly limited to no more than 200, and Secretary Kissinger agreed when I stated the contingent should not and will not be increased at any time without the specific additional authorization of Congress. The contingent will be composed of civilians; it will not be a military force. And if for any reason the United States concludes that their safety is jeopardized, the Americans can be withdrawn unilaterally on short notice. In addition to the new U.S. personnel, U.N. forces—which already include some 36 Americans—will remain in the U.N. buffer zone; the U.S. monitoring team will be accorded the same rights and immunities now provided those U.N. personnel.

It has been suggested that the use of American civilian technicians at listening posts in the Sinai is the first step toward another Vietnam. I emphatically disagree; I see no analogy at all. In Vietnam, the United States sent military men into an ongoing war at the request of only one side in order to serve that side's military interests. In the Sinai, the administration proposes to send civilians into a U.N. buffer zone at the request of both sides to serve the peaceful interests of both sides. In Vietnam, we escalated a war; in the Sinai, our presence will serve as a deterrent to war.

Without congressional approval of the proposed American role in the Sinai, it is more than likely that the entire interim agreement will collapse. And without that agreement, the Middle East stalemate will resume—a stalemate which Jordan's King Hussein correctly characterized as "a false peace that is shrinking by the hour." During the 13-nation Middle East trip I took earlier this year for the Senate Foreign Relations Committtee, I was repeatedly warned that unless significant negotiating progress was made by the end of this year, the danger of a fifth Arab-Israel war would be very great. There is every reason to believe that the collapse of this new Sinai accord would heighten that danger.

The consequences of a new Middle East war could be catastrophic. It would inflict a human price in casualties that Israel in particular—a nation of barely 3 million—cannot afford. It would undermine the already shaky economies of both Egypt and Israel. It would almost surely trigger a new oil embargo that could prove economically disastrous to the West. And it would raise once more the awful specter of a direct United States-Soviet confrontation.

By comparison, the risks of stationing 200 American technicians in the Sinai U.N. buffer zone seem fairly small. For a long time, the United States has urged the Israelis and the Egyptians to take some risks for peace. Now that they finally have agreed to do so, we should be willing to do no less.

Mr. KENNEDY. Mr. President, both Senator HUMPHREY, and I have traveled to the Middle East many times, and have many close friends in Israel—and friends in Arab countries, as well. Should we not be making clear to all concerned that the best way of securing a real American commitment to the future is to continue working in the directions now begun by Israel and Egypt? That time is really on no one's side—unless it is used wisely now for the next step, and the next, toward peace?

Mr. HUMPHREY. I agree with my distinguished colleague from Massachusetts. The Sinai agreement is a step toward peace. It offers both sides an opportunity for further initiatives toward a final settlement in the Middle East.

I strongly believe that both Israel and Egypt cannot regard this recently concluded agreement as an end in and of itself—it is a beginning. The Sinai agreement will allow both sides to calm the tensions that were pushing the parties toward inevitable war. But I know that both you and I regard this process as a continuing one. Neither side can afford to lose the momentum of negotiation. If this should happen, hostilities could consume both nations. The word must go forth from this body to our friends in Israel and Egypt that we expect both countries to continue to take risks for peace. This will take leadership and it will take courage. I am confident that both Prime Minister Rabin and President Sadat are committed to the process of negotiation toward a full peace agreement. And these men of foresight deserve our support.

Mr. KENNEDY. The Foreign Relations Committee, and now the full Senate, have been engaged in lengthy debate about the nature of U.S. commitments under the Sinai agreement. We have made it clear that this resolution of approval is limited, and that we have not endorsed or rejected any of the specific agreements, commitments, or undertakings of the administration. There has been discussion about the proper role that the Congress should be playing, on what action we should be taking now.

But is not our real objective here to take those actions in the Middle East that are best designed to lead to peace? Our approval of this resolution is based on our view that it moves the process forward, is it not? Is not the best insurance that what we do here will be the right course, a clear understanding that this agreement is viewed not as the end of the search for peace, but only one significant step on the way?

Mr. HUMPHREY. I am glad that the Senator has raised this point. Throughout this debate, we have been preoccupied with what the Congress has not committed itself to. I think we are in agreement on that. But there is a risk that we will lose sight of the real significance in what has been gained in this Sinai agreement: that it marks real and substantial progress on the way to bringing about the final settlement of this conflict, so that all the peoples of the Middle East can live at peace.

If what has been achieved here—by Secretary Kissinger, by Israel, by Egypt—can move forward, then there will never be a question of the nature of the U.S. commitment in the event of trouble. There will be no question of the circumstances under which the U.S. technicians would be removed. There would only be the question of what efforts the United States can make, along with the local parties themselves, to get the final peace settlement signed and sealed.

The only risk lies in stopping now—in seeing this agreement not as the hopeful start toward peace, but as an end to the effort. Now we in the Senate are quite clear in looking to further progress in the future. The Secretary of State has committed himself to working tirelessly for peace. I know that the State of Israel wants nothing else but to be able to live at peace with all its neighbors—and the sooner the better. And President Sadat of Egypt has committed himself to that process in the documents he signed.

So I welcome the chance at this point in the debate to cast our eyes forward, to the next steps, and the next, that will bring a hopeful new era of peace to the Middle East.

Mr. KENNEDY. As we look to the future, in seeing the Sinai agreement as part of a longer process leading to peace, we certainly should be focusing more on what happens now, rather than on what has already been done. During the deliberations of the Foreign Relations Committee—particularly the appearances by Secretary Kissinger—were you given a sense that there is momentum now at work?

Mr. HUMPHREY. Throughout our many hours of deliberation in both executive and public session, there was a widely held belief that this agreement will not be a success unless it is followed by future negotiations in the Sinai and the Golan Heights. Secretary Kissinger was adamant about this point. He spoke

of it often. He viewed his work in the context of beginning a process—not concluding a negotiation. He made it clear to the members of the Foreign Relations Committee that the administration was committed to encouraging strongly both sides to continue their efforts at negotiation once this agreement comes into force. He said that the alternatives to the continuation of the process of negotiation was certain war.

Mr. KENNEDY. I believe we are all in agreement that the administration cannot make U.S. commitments in any area of the world without congressional participation, through the exercise of its varied constitutional responsibilities. This is an issue that we have often debated here—and we have a War Powers Act, authorization and appropriations process, and treaty powers that involve advice and consent responsibilities.

Do you agree that there is no specific commitment here beyond that stated in the resolution approving these technicians?

Is it not also clear, from the wording of the resolution as reported by the committee, that we are restating that the President may develop policy for his administration, but that he cannot commit the Nation in areas where the Constitution clearly gives the Congress its own role?

And is it not also clear that every other commitment he enters into on behalf of the United States, anywhere in the world, is similarly subject to our proper constitutional role?

Mr. HUMPHREY. I think that the point we have tried to make over and over in the Foreign Relations Committee, and again here on the floor, is that the Congress of the United States has clear responsibilities—clear prerogatives under the Constitution—in the making of U.S. foreign policy. What those responsibilities and prerogatives are has been the subject of long debate here in the Senate, right from the moment I was privileged to come here in 1949. And we have been particularly concerned during the last few years, with the Vietnam war, and the War Powers Act, to spell out just what the Congress should do, under the Constitution, in foreign policy, and what is not appropriate for us to do.

What we are considering tonight is just one part of the overall Sinai agreements—the part relating to the stationing of U.S. technicians. We have not taken any stand, pro or con, on any of the rest of the agreements, though I am sure every member of this Chamber has his views on particular points.

This is not the end of congressional action. There are appropriations to follow—appropriations that are an essential part of the process of peace. And we have the War Powers Act, which spells out clearly what the President can and cannot do, and what the role of the Congress is.

So I am not at all concerned that by approving this resolution we are giving the administration a "blank check," or giving our unspoken approval to agreements we have not formally approved. Some of these merely put in formal language the diplomatic practice of the United States for many years. A few break some new ground. But in limiting ourselves here to the agreement on technicians, we have given up none of our prerogatives—and certainly not given up any of our responsibilities under the Constitution.

That applies to agreements affecting the Middle East. And it certainly applies as well to other parts of the world.

Let me say one other thing. What we are embarked upon here is not something we see as an adversary process, where the Congress will oppose simply because the administration proposes. Rather we see this as an essential way for the Congress and administration to work together in formulating the best foreign policy possible to serve America's interests.

Mr. KENNEDY. What we are talking about, today, is the stationing of up to 200 American civilians in the Sinai. We understand that there is political importance to the parties concerned that these be Americans, and not some other nationality, whether or not under the United Nations. But since in the long run we are concerned about strengthening the role of the United Nations, and reestablishing its credibility, particularly in the Middle East—and since we hope that a real peace will develop—is not there merit in seeking agreement for the training of U.N. personnel in the surveillance techniques, in the use of the associated equipment as a valuable backup force, in the event that the Americans were for any reason withdrawn—as potentially envisioned in this resolution—and when it would still be valuable to have monitors?

Mr. HUMPHREY. For many years I have believed that there should be a greater role for the United Nations—including its peacekeeping forces—in many parts of the world. So I think this idea has merit, it is something we should look at. Of course, it is important that training U.N. personnel in these techniques should not be misinterpreted as detracting from the U.S. commitment we are making in this resolution. That is an important political commitment that can help bring about peace. But for the contingencies you mention—and as a way of strengthening the capabilities of the United Nations, here and elsewhere—this is an idea I would like to see pursued.

Mr. KENNEDY. I thank the distinguished Senator from Minnesota for answering these questions. And I would like to compliment him for his leadership in managing this resolution, at this important time in the search for peace in the Middle East.

Mr. HRUSKA. Mr. President, I rise in support of Senate Joint Resolution 138, favorably reported by the Senate Foreign Relations Committee. That committee has held extensive hearings on the proposal to station as many as 200 American civilian technicians in the Mitla and Giddi Passes in the Sinai Peninsula. Distinguished witnesses have been heard and the committee has reported out its resolution. The other body has acted. It is now up to the Senate to determine whether this proposal will be approved and put into effect.

Given our long and unhappy experience in Indochina, it is understandable that many questions have surfaced regarding the nature and extent of any U.S. commitments which would flow from congressional approval of this proposal. It is all to the good that any proposal which involves our country in this Middle Eastern dispute should be most carefully considered; lest the American people, or we, their elected representatives, fail to understand the full ramifications of our actions. The Foreign Relations Committee is to be commended for the thoroughness of its deliberations on this matter.

WHAT RESOLUTION DOES NOT DO

Mr. President, in discussing the merits of Senate Resolution 138 perhaps it is helpful first to state what it does not purport to do.

First, it does not provide for the stationing of any American military forces in these key Sinai passes. The technicians would be entirely civilian. They would be volunteers and would not be under the control of either the CIA or the Department of Defense.

This is an important point because fears have been voiced that we run the risk of taking the first step down that same path that led us into Vietnam. The difference between our Vietnam military involvement and the action being contemplated now is, however, vital to the very nature of this proposal.

American troops will not be sent to the Sinai either to man the early warning system or to protect those civilians who will operate that system. This is quite different from the slow, piecemeal process of our Vietnam involvement which can be traced to the sending of American military advisers to that country.

Furthermore, unlike the situation in which we found ourselves in Vietnam, both sides to this current dispute have requested the American presence in the Sinai. In Vietnam there were military forces involved, and this was at the invitation of only one of the opposing enemy countries, namely South Vietnam.

This resolution further provides that those technicians would be removed immediately should hostilities break out between Egypt and Israel or—and this is extremely important—if the Congress determines that the safety of these civilians is either jeopardized or that their presence is no longer required. Therefore, if the Congress approves the stationing of these technicians in the Sinai it also retains the authority to remove them. Thus, this is no open-ended resolution as the Congress remains very much in control.

Second, this resolution does not commit the United States to any course of action other than that expressly contained in the wording of the resolution. Approval of the resolution in no way commits the U.S. Government to do anything further for anybody. No one, be he Egyptian, Israeli, or American, should be misinformed on this point.

Likewise, the resolution does not pro-

vide any authority which the executive branch can use to justify actions which by itself would constitute an abuse of the Executive's right to conduct our country's foreign policy.

Any agreements or understandings which fall outside of the Executive's authority to conduct that foreign policy and not contained in Senate Joint Resolution 138 as approved by the Congress are nonbinding upon the Congress and the America people.

WHAT RESOLUTION WOULD ACCOMPLISH

Mr. President, having stated what this resolution does not do, let me now briefly point out what passage of this resolution would accomplish.

First, it gets the search for a lasting peace in the Middle East off dead center. This is vital because so long as there are signs of progress towards an eventual settlement of the dispute there is much less likelihood of hostilities breaking out.

Any outbreak of new fighting in the Middle East would have a direct and harmful effect upon the United States. I am opposed to U.S. military involvement. Even if we were able to avoid such military involvement, however, we could not avoid the adverse economic consequences. One must assume that there would again be a disruption in the flow of oil from this area of the world to the industrialized nations of Western Europe and possibly Japan. The free world is still recovering from the effects of the first oil embargo and resultant increases in price. Should this happen again, the economic, social, and political pressures within the affected countries would be tremendous. While no one can safely predict what direction the results of such pressures would take, it seems safe to conclude that resulting changes within those countries would not be in harmony with our policy of peace and security through free world economic cooperation and growth.

Since the affected countries would be our main trading partners, the United States would necessarily be affected as similar pressures within our own society are released.

Thus the structure of the free world societies would become weakened, offering the Communist world a tempting opportunity for adventurism. We cannot afford that risk.

Second, passage of this resolution would strengthen the position of Egyptian President Anwar El-Sadat. President Sadat has proven himself to be willing to join in the quest for a peaceful settlement in the Middle East. At the risk of great political and personal danger he has rejected the position of Arab extremists who want to destroy Israel. Such an attitude in the Arab world has been all too rare in the past. Should the Congress reject the proposal to place the American civilians in the Sinai, it is questionable whether President Sadat could remain in control of events in either Egypt or the Arab world. The loss of his leadership would be a grave blow to the search for peace and it would be difficult for another Arab leader of a moderate outlook to take his place.

WHAT IS AT STAKE

The last point I want to make is this. We live in a world where all of our tomorrows can be destroyed at the press of a button. While we hope that the finger on the button is controlled by a reasonable mind, we can never forget that the 20th century is a living example of terrible wars that men of reason should have avoided.

The Middle East is the Balkans of the 1970's. So long as the dispute festers, there is a great chance of war which could well involve the superpowers against their will. If that should happen, no one would be safe from destruction. Any opportunity to seek a fair and peaceful settlement must be pursued.

CONCLUSION

Mr. President, in conclusion I would like to make the observation that this plan is the only one that has been offered which has the potential of bringing peace to the Middle East.

What are our alternatives?

There are none.

We must give this plan a chance to work.

Mr. KENNEDY. Mr. President, today, the Senate is considering Senate Joint Resolution 138, "To implement the U.S. proposal for the early-warning system in Sinai."

This proposal is part of a long and patient effort to secure a further disengagement of Israeli and Egyptian forces, and to lay the groundwork to end conflict in the Middle East. We therefore approach our task today in a spirit of hope—hope that conflict will give way to a time of reconciliation and peaceful development for the peoples of the Middle East, so that tomorrow's generations will not know the war and suffering of the past.

This proposal for U.S. technicians is not a commitment into which the United States can enter lightly. It implies, above all, a continuing and direct involvement of the United States in relations between Israel and Egypt, and in future efforts to secure a just and lasting peace in the Middle East. The 200 technicians who will serve in the Sinai will be civilian, not military, personnel. But the implications for U.S. foreign policy are still serious ones, requiring the most thorough consideration and debate by both Houses of Congress.

Mr. President, I believe that U.S. policy in the Middle East should be guided by one overriding priority: the ending of a quarter-century of conflict in that troubled part of the world, and the promoting of steady progress toward the day when Israel can live in peace and genuine security with its neighbors.

The Senate Foreign Relations Committee has deliberated at length on the resolution before us, today, and has received testimony from many witnesses, including the Secretary of State. On the basis of their deliberations, I am satisfied that the Senate should approve this resolution.

I am also gratified that Senate Joint Resolution 138 provides specifically for circumstances under which these American civilian technicians would be removed, by either Executive or congressional action. And section 5 specifically indicates that this resolution "does not signify approval of the Congress of any other agreements, understanding, or commitment made by the executive branch." For this agreement should not in any way be construed as sanctioning a future, direct American role in any Middle East hostilities.

While I support Senate Joint Resolution 138, I regret that the Congress will not have a chance to consider and vote on the entire package of agreements. Such consideration is not only in our own interest—but, I believe, in that of the local parties themselves.

For example, our longstanding commitment to the secure and independent future of Israel is clear, and has the firm backing of the Congress and the American people. Even so, the detailing of that commitment in documents presented to the Congress for its approval would be far more meaningful both for us and for Israel, in that it would permit the Congress and the American people to understand clearly all that is either stated or implied in them, and what is not.

I have one suggestion and one additional comment. First, despite the political value to both Israel and Egypt of having American technicians present in Sinai, as opposed to those of other nations, I believe it is important that backup personnel from other nations be trained in the appropriate surveillance techniques and use of associated equipment. In the event that American technicians were withdrawn, for whatever reason, while the function of surveillance still remained critical, I believe that personnel should be available for this task.

Accordingly, I propose that the administration approach both the governments of Israel and Egypt, and the United Nations, to seek agreement that personnel of other nations, under the authority and auspices of the United Nations, also be trained to carry out the agreed surveillance function. Thus there would always be a backup team available, to perform this essential task.

Second, I support this resolution on the clear understanding that what has been achieved in the Sinai so far will be only part of the process of seeking peace between Israel and its neighbors, not the end of that process. This is the best way of resolving the issue of U.S. commitments under the Sinai Agreements: To go beyond the debate here in the Senate the last 3 days, and focus on the next steps for peace.

It seems clear to me that the best hope of securing the peace lies in steady, concerted efforts to move onward, building each step or series of steps on what has gone before. Resting on what has been accomplished, by contrast, would be likely to play into the hands of those elements in the Middle East that do not necessarily share our commitment—or that of Israel and Egypt—to a final end to this long-lasting conflict.

We in the Congress must continually monitor what is being done to move toward peace, in order to form our own judgments about the continued effective-

ness of this resolution, and the other agreements made between the administration and the other parties to the Sinai agreements.

There is no "blank check": rather a continuing congressional responsibility to perform its constitutional role in U.S. foreign policy.

Mr. President, with this suggestion and this comment, I would like to add my support for this resolution and the specific restrictions placed on it by the Senate Foreign Relations Committee.

Mr. PACKWOOD. Mr. President, I shall vote in favor of the Senate Joint Resolution 138 authorizing not more than 200 civilian volunteer technicians to be sent to the Sinai. These volunteer technicians will assist in manning the early-warning system in the Sinai desert separating the countries of Israel and Egypt. I consider this a positive step toward a negotiated general peace in the area.

I shall vote in favor of this resolution for three reasons: First, the resolution was narrowly defined and clearly drawn; second, Congress has not delegated ultimate responsibility for these men and the situation in the Middle East to the executive branch; and third, both Israel and Egypt requested these technicians.

The agreement between the United States and Israel and the United States and Egypt as well as the agreement between Egypt and Israel itself has been subject to tremendous scrutiny by both the House and Senate Foreign Relations Committees. Secretary Kissinger has testified that the administration provided the committees with "all of the assurances, undertakings, and commitments which we consider to be legally binding upon the United States," and that "there are no other assurances or undertakings, beyond those already submitted to the Congress, which are binding upon the United States." Thus we have been given the assurances of the administration that all relevant documents were viewed by the committees in reaching their determination.

The resolution itself, the language we voted on today, has been consciously limited to sanctioning not more than 200 civilian volunteer technicians. Each of these words is significant. Not more than 200: This precludes escalation of the number of volunteers to greater and greater amounts. Congress must approve the change in numbers. These 200 must be civilians; they cannot be associated with the military or the CIA in any fashion. They must be volunteers, willing to go to the Sinai desert on their own initiative. They must be technicians capable of manning technical equipment needed for the peacekeeping effort.

Under the terms of the resolution, these volunteers will be removed immediately in the event of any hostilities between Egypt and Israel or if Congress determines that their safety is jeopardized. Perhaps most importantly, the resolution, and I quote, "does not signify approval of the Congress of any other agreement, understanding, or commitment made by the executive branch." The language of the resolution precludes an extension of executive powers in the Middle East or anywhere else.

This clear language of the resolution and the statements of our intent will prevent misunderstandings between the United States and the two parties involved in the agreement. It will also prevent misunderstandings between the administration and the Congress. If we can prevent misunderstandings, we are well on the road to preventing abuses and mishaps.

Second, Congress has not delegated ultimate responsibility for these men or the Middle East situation to the executive branch. Congress retains authority to remove these men if necessary. Congress retains authority over authorizations and appropriations of each future request. Further, the President must submit reports at least every 6 months on: First, the status, scope, and anticipated duration of the participation of our volunteers; and, second, the feasibility of reducing their participation by substituting nationals of other countries or by making technological changes. Congress must review these reports. Ultimately, Congress retains responsibility. To view the situation otherwise is to neglect that responsibility.

Last, we are acting at the request of both governments; Israel and Egypt specifically asked for U.S. volunteers to be stationed in the demilitarized zone. This in no way parallels our action in the initial stages of our involvement in Vietnam when we sent 16,000 military advisers to one side only. The Sinai technicians will be stationed between the two sides to monitor and thus help assure the peace. In Vietnam, the advisers joined one army against another to assist in fighting a war.

Mr. President, the Egyptian-Israeli agreement signed on September 4 is a first step toward peace in the Middle East. It hinges on the willingness of the United States to send 200 volunteers to the Mitla and Giddi Passes in the Sinai Peninsula to operate three watch stations and oversee operations of Egyptian and Israeli surveillance stations. We cannot afford to break the momentum of peace.

Mr. HUMPHREY. Mr. President, the Senate has now, under Senate Joint Resolution 138, passed identical language to the House joint resolution, and in order to fulfill parliamentary procedure and expedite action, I ask unanimous consent to proceed to the consideration of House Joint Resolution 683.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 683) to implement the U.S. proposal for the early-warning system in Sinai.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read twice, and the Senate will proceed to its immediate consideration.

Mr. HUMPHREY. Mr. President, I know that the Members of this body wish a rollcall vote on it, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

If there be no amendment to be proposed, the question is on the third reading of the joint resolution.

The joint resolution was ordered to be read a third time and was read the third time.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution having been read the third time, the question is, Shall it pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. McGEE), the Senator from South Dakota (Mr. McGOVERN), the Senator from Montana (Mr. METCALF), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I also announce that the Senator from Michigan (Mr. HART) is absent because of illness.

On this vote, the Senator from Hawaii (Mr. INOUYE) is paired with the Senator from Idaho (Mr. McCLURE). If present and voting, the Senator from Hawaii would vote "yea" and the Senator from Idaho would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. McCLURE), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The result was announced—yeas 70, nays 18, as follows:

[Rollcall Vote No. 441 Leg.]

YEAS—70

Baker	Griffin	Packwood
Bartlett	Hansen	Pastore
Beall	Hart, Gary W.	Pearson
Bellmon	Hartke	Pell
Bentsen	Hathaway	Percy
Brock	Hruska	Proxmire
Brooke	Huddleston	Ribicoff
Buckley	Humphrey	Roth
Bumpers	Jackson	Schweiker
Byrd, Robert C.	Javits	Scott, Hugh
Case	Johnston	Stafford
Chiles	Kennedy	Stennis
Church	Leahy	Stone
Clark	Long	Symington
Cranston	Mathias	Taft
Culver	McClellan	Talmadge
Dole	McIntyre	Thurmond
Domenici	Mondale	Tower
Eagleton	Montoya	Tunney
Eastland	Morgan	Weicker
Fong	Moss	Williams
Ford	Muskie	Young
Garn	Nelson	
Glenn	Nunn	

NAYS—18

Abourezk	Burdick	Curtis
Allen	Byrd, Harry F., Jr.	Durkin
Biden		Fannin

Goldwater	Hollings	Scott,
Haskell	Magnuson	William L.
Hatfield	Mansfield	Stevenson
Helms	Randolph	

NOT VOTING—12

Bayh	Inouye	McGovern
Cannon	Laxalt	Metcalf
Gravel	McClure	Sparkman
Hart, Philip A.	McGee	Stevens

So the joint resolution (H.J. Res. 683) was passed.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which that joint resolution was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was passed.

Mr. HUMPHREY. Mr. President, I move that the Senate joint resolution (S.J. Res. 138) be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR INDEFINITE POSTPONEMENT OF SENATE JOINT RESOLUTION 271

Mr. MANSFIELD. Mr. President, I ask unanimous consent that calendar No. 397, Senate Resolution 271, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Calendar Nos. 407, 408, and 411.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF THE INTERIOR

The bill (S. 1922) to amend the act of July 7, 1970 (84 Stat. 409) to authorize appropriations to the Secretary of the Interior without reference to the agencies involved, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Act entitled "An Act to authorize the Secretary of the Interior to construct, operate, and maintain the Touchet Division, Walla Walla project, Oregon-Washington, and for other purposes", approved July 7, 1970 (84 Stat. 409), is amended to read as follows:

"SEC. 6. There are authorized to be appropriated for construction of the works involved in the Touchet Division the sum of $22,774,000 (January 1969 prices), plus or minus such amounts, if any, as may be required by reason of changes in the cost of construction work of the types involved therein as shown by engineering cost indexes, and, in addition thereto, such sums as may be required to operate and maintain such division.".

AMENDMENT OF THE HORSE PROTECTION ACT

The Senate proceeded to consider the bill (S. 811) to amend the Horse Protection Act of 1970 to better effectuate its purposes, which had been reported from the Committee on Commerce with amendments.

Mr. TUNNEY. Mr. President, 8 months have passed since I introduced this bill, during which time several hundred walking horse shows have been held. There are 1,800 horse shows affected by such legislation each year. Of those 1,800, the Department of Agriculture can only be on hand to inspect horses at 25. This bill would increase the appropriations so officials of the Department could be on hand to inspect more.

There are approximately 41,000 cases presently pending which cannot be prosecuted because of lack of funds. Additionally, the sored horses discovered at various shows cannot be confiscated, nor can any of the equipment, making it difficult to prosecute later. S. 811 provides for the detention of sored horses and forfeiture or seizure of equipment used in violation of the act.

Many legitimate breeders are being forced out of the show ring because they cannot compete with the sored horses. Great strides were made when we passed the Horse Protection Act of 1970, however, the industry is now at a turning point where those who ceased soring may well be forced to return to the practice in order to stay in business. Unless this legislation is enacted, it is my belief that soring will again be on the increase. The nonaffiliated shows continue to present many problems. Reports indicate that walking horses are being sored before a show, then the horse's feet are covered with a freezing agent which allows the horse to pass the steward's inspection. By the time the horse enters the ring, the freezing action has disappeared, and the horse enters completely sored, and is ultimately placed high by the judges. Under my bill, the acts prohibited by law are expanded in scope and in number and if enacted, would place under the obligation of the law owners, trainers, shippers, judges, and managers or producers of shows. This would force judges to meet their responsibility in dismissing sore horses from competition.

I cannot stress the importance of passing this legislation quickly. The House is ready to act on this measure. The bill has the support of the American Horse Protection Association, the Department of Agriculture, the Tennessee Walking Horse Breeders' and Exhibitors' Association, and the American Horse Council. In a recent letter James Rowland, commissioner of the Breeders' and Exhibitors' Association, said the following:

We feel the enactment of this bill (S. 811) is to the best interest of the entire Walking Horse Industry and, certainly, of the public. For this reason, we urge your support of this bill with the hope that it will be acted upon favorably and promptly by the United States Senate.

With that Mr. President, I would ask for a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments were agreed to.

The bill, as amended, was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 811

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Horse Protection Act Amendments of 1975".

SEC. 2. Section 1 of the Horse Protection Act of 1970 (Public Law 91–540) is amended to read as follows: "That this Act may be cited as the 'Horse Protection Act'.".

SEC. 3. Section 2 of the Horse Protection Act of 1970 (15 U.S.C. 1821) is amended to read as follows:

"DEFINITIONS

"SEC. 2. As used in this Act, unless the context otherwise requires—

"(1) 'commerce' means commerce among the several States or with foreign nations or in or through any State or between any State and a foreign nation;

"(2) 'management' refers to any person who organizes, exercises control over, or is responsible for organizing, directing, or administering;

"(3) 'Secretary' means the Secretary of Agriculture, or his delegate;

"(4) 'sore', with respect to a horse, means that (A) an irritating or blistering agent has been applied, internally or externally, to any of its limbs; (B) any burn, cut, or laceration has been inflicted on any of its limbs; (C) any tack, nail, screw, or chemical agents has been injected into or used on any of its limbs; or (D) any other method or device has been uesd on any of its limbs, and, as a consequence of such application, infliction, injection, or other use, the subject of such use suffers, or reasonably can be expected to suffer, physical pain, physical distress, inflammation, or lameness when walking, trotting, or otherwise moving. A horse shall be considered sore if it manifests abnormal sensitivity of the hoof, pastern, or fetlock;

"(5) 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and any territory or possession of the United States; and

"(6) 'unsound limb', with respect to a horse means any condition in any of its limbs that results in, or reasonably can be expected to result in, physical pain, physical distress, inflammation, or lameness to such horse when it is walking, trotting, or otherwise moving.".

SEC. 4. (a) GENERAL.—(1)(A) Section 3 of the Horse Protection Act of 1970 (15 U.S.C. 1822) is amended to read as follows:

"FINDINGS

"SEC. 3. The Congress finds and declares that—

"(1) the soring of horses is cruel and inhumane;

"(2) horses shown or exhibited which are sore or which have any unsound limb, may, where such soreness or unsoundness improves the performance of such horse, compete unfairly with horses which are not sore and which have sound limbs;

"(3) the movement, showing, exhibition, or sale of sore horses in intrastate commerce adversely affects and burdens interstate or foreign commerce;

"(4) the showing or exhibition of horses that have any unsound limb is cruel and inhumane and adversely affects and burdens interstate or foreign commerce;

"(5) all horses which are subject to regulation under this Act are either in interstate or foreign commerce or substantially affect such commerce; and

"(6) regulation by the Secretary is appropriate to prevent and eliminate burdens upon commerce and to effectively regulate commerce.".

SEC. 5. Section 4 of the Horse Protection

Act of 1970 (15 U.S.C. 1823) is amended to read as follows:

"RESPONSIBILITIES

"SEC. 4. (a) GENERAL.—(1)(A) The management of any horse show or horse exhibition shall disqualify any horse which is sore or which has any unsound limb from being shown or exhibited; and

"(B) The management of any public horse sale or auction shall prohibit the sale or auction of any horse which is sore; or

"(2) The management of any horse show, horse exhibition, or public horse sale or auction, in accordance with regulations which the Secretary shall issue, may appoint and retain any person who is qualified to detect and diagnose a sore horse and a horse with any unsound limb, other than a person who has been disqualified by the Secretary, after notice and an opportunity for a hearing, to inspect horses for purposes of this Act, at any place or at any time on the show or exhibition grounds and before, during and after the horses are shown, exhibited, or sold: *Provided*, That if any such qualified person is appointed by management (A) the management of any horse show or horse exhibition shall disqualify from being shown or exhibited any horse which, in the opinion of such qualified person, is sore or has an unsound limb or limbs; and (B) the management of any public horse sale or auction shall prohibit the sale of any horse which, in the opinion of such qualified person, is sore.

"(b) RECORDS.—Each person who organizes, promotes, directs, manages, or conducts a horse show, horse exhibition, or public horse sale or auction shall keep such records relating thereto as the Secretary may by regulation prescribe. Such person shall submit to the Secretary, in such form and with such content as the Secretary shall prescribe, any notification, report, or other material relating to any matter regulated under this Act as the Secretary shall by regulation prescribe. Any such regulation and any amendment thereto shall be issued on the record after an opportunity for a hearing.

"(c) INSPECTION.—The Secretary is authorized to conduct such inspections, of any horse show, horse exhibition, or public horse sale or auction, or of any horse at any horse show, horse exhibition, or public horse sale or auction, as he may by regulation prescribe or as he deems necessary for the effective enforcement of this Act. The Secretary is further authorized to inspect and copy, at all reasonable times, such records as are required to be kept under subsection (b) of this section.".

SEC. 6. Section 5 of the Horse Protection Act of 1970 (15 U.S.C. 1824) is amended to read as follows:

"PROHIBITED CONDUCT

"SEC. 5. The following conduct is prohibited:

"(1) shipping, transporting, moving, delivering, or receiving any horse which is sore (except a horse which is sore as a result of therapeutic treatment by a person licensed to practice veterinary medicine in the State or political subdivision thereof in which such treatment was given), with reason to believe that such horse may be shown, or exhibited, or entered for the purpose of being shown or exhibited, or sold, auctioned, or offered for sale, in any horse show, horse exhibition, or public horse sale or auction: *Provided*, That this provision shall not apply to an act performed by a person engaged in the transport of horses for hire in the course of such transport unless such person has reason to believe such horse is sore;

"(2) showing, exhibiting, or entering for the purpose of showing or exhibiting, or selling, auctioning, or offering for sale, in any horse show, horse exhibition, or public horse sale or auction, any horse which is sore;

"(3) showing, exhibiting, or allowing to be shown or exhibited, any horse, after having been advised by a qualified person, in accordance with section 4(a)(2) of this Act, management, or the Secretary that the horse has an unsound limb;

"(4) failure by the management of any horse show or horse exhibition, which does not appoint and retain a qualified person in accordance with section 4(a)(2) of this Act, to disqualify from being shown or exhibited any horse which is sore or which has any unsound limb;

"(5) failure by the management of any public horse sale or auction, which does not appoint and retain a qualified person in accordance with section 4(a)(2) of this Act, to prohibit the sale, offering for sale, or auction of any horse which is sore;

"(6) failure by the management or any horse show or horse exhibition, which has appointed and retained a qualified person in accordance with section 4(a)(2) of this Act, to disqualify from being shown or exhibited any horse, which, in the opinion of such qualified person, is sore or has any unsound limb;

"(7) failure by the management of any public horse sale or auction, which has appointed and retained a qualified person in accordance with section 4(a)(2) of this Act, to prohibit the sale, offering for sale, or auction of any horse which, in the opinion of such qualified person, is sore;

"(8) showing or exhibiting at a horse show or horse exhibition; selling or auctioning at a public horse sale or auction; allowing to be shown, exhibited, or sold at a horse show, horse exhibition, or public horse sale or auction; entering for the purpose of showing or exhibiting in any horse show or horse exhibition; or entering for the purpose of selling at a public horse sale or auction, any horse which is wearing or bearing any equipment, device, paraphernalia, or substance which the Secretary does not allow to be used on the limbs of a horse, in the interest of preventing the practice of soring and pursuant to regulations to be issued under this Act;

"(9) failing to maintain or submit records, notices, reports, or other material required by this Act or regulations issued under this Act;

"(10) refusing to permit the Secretary to enter and to conduct any inspection of any horse show, horse exhibition, or public horse sale or auction, or of any horse at any horse show, horse exhibition, or public horse sale or auction, for purposes of determining compliance with this Act or any regulations issued under this Act; and

"(11) failing to provide the Secretary with adequate space or facilities, as the Secretary may by regulation prescribe, in which to conduct inspections or any other activity authorized to be performed by the Secretary under this Act.".

SEC. 7. Section 6 of the Horse Protection Act of 1970 (15 U.S.C. 1825) is amended to read as follows:

"ENFORCEMENT

"SEC. 6. (a) CRIMINAL VIOLATION.—Except as otherwise provided in paragraphs (5) and (6) of subsection (d) of this section and in section 9 of this Act, any person who knowingly engages in any conduct prohibited under section 5 of this Act shall be subject to criminal prosecution and, upon conviction thereof, shall be fined not more than $3,000, or imprisoned for not more than 6 months, or both. An action against such person may be brought before any United States magistrate in the district court of the United States in any judicial district in which such person is found, and such magistrate shall have jurisdiction to hear and decide such action.

"(b) CIVIL ACTION.—(1) Except as otherwise provided in subsection (d)(7) of this section, any person who commits any act prohibited under section 5 of this Act shall be liable to the United States for a civil penalty of not more than $500 for each day of violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation. The amount of such civil penalty shall be assesed by the Secretary, or his delegate, by written notice. In determining the amount of such penalty, the Secretary shall take into account all factors relevant to such determination, including the nature, circumstances, extent, and gravity of the prohibited conduct and, with respect to the person found to have engaged in such conduct, the degree of culpability, any history or prior offenses, ability to pay, effect on ability to continue to do busines, and such other matters as justice may require.

"(2) Any person against whom a violation is found and a civil penalty assessed under paragraph (1) of this subsection may obtain review in the appropriate court of appeals of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found and such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings of the Secretary shall be set aside if found to be unsupported by substantial evidence, as provided by section 706(2)(e) of title 5, United States Code.

"(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

"(4) The Secretary may, in his discretion, compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection.

"(c) DISQUALIFICATION.—In addition to any fine, imprisonment, or civil penalty authorized under this Act, any person convicted or assessed a civil penalty for any violation of any provision of this Act or any regulation issued under this Act may be disqualified by order of the Secretary, after notice and an opportunity for a hearing before the Secretary, from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or public horse sale or auction, horse exhibition, or public horse sale or auction, for a period of not more than one year for the first offense and not less than one year for any subsequent offense. Any person who knowingly fails to obey an order of disqualification shall be subject to a civil penatly of ot more than $1,000 for each offense. Each day during which such failure continues shall be a separate offense. Any horse show, horse exhibition, or public horse sale or auction, or the management thereof, collectively and severally, which knowingly allows any person who is under an order of disqualification to show or exhibit any horse, to enter for the purpose of showing or exhibiting any horse, to take part in managing or judging, horse exhibition, or public horse sale or auction in violation of an order shall be subject to a civil penalty of not more than $1,000 for each offense, to be assessed

by the Secretary in accordance with subsection (b) of this section. Each day during which the violation continues shall be a separate offense.

"(d) PROCEDURE.—

"(1) The Secretary may require by subpena the attendance and testimony of witnesses and the production of books, papers, and documents relating to any matter under investigation or the subject of a proceeding. Witnesses summoned before the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(2) The attendance of witnesses, and the production of books, papers, and documents, may be required at any designated place from any place in the United States. In case of disobedience to a subpena the Secretary, or any party to a proceeding before the Secretary, may invoke the aid of any appropriate district court of the United States in requiring attendance and testimony of witnesses and the production of such books, papers, and documents under the provisions of this Act.

"(3) The Secretary may order testimony to be taken by deposition under oath in any proceeding or investigation pending before him, at any stage of the proceeding or investigation. Depositions may be taken before any person designated by the Secretary who has power to administer oaths. The Secretary may also require the production of books, papers, and documents at the taking of depositions.

"(4) Witnesses whose depositions are taken and the persons taking them shall be entitled to the same fees as paid for like services in the courts of the United States or in other jurisdictions in which they may appear.

"(5) Any person who knowingly neglects or refuses to attend and testify, or to produce books, papers, and documents in reply to a subpena, or to submit a report required by the Secretary, shall be guilty of an offense against the United States, and upon conviction thereof shall be fined not more than $1,000, or imprisoned for more than 1 year, or both.

"(6) Any person who willfully makes, or causes to be made, a false entry or statement in any report required under this Act; who willfully makes, or causes to be made, any false entry in any account, record, or memorandum kept by any person subject to this Act or in any notification or other material required to be submitted to the Secretary under section 4(b) of this Act; who willfully neglects or fails to make or causes to be made, full, true, and correct entries in such accounts, records, memoranda, notification, or other materials; who willfully removes any such documentary evidence of any person subject to this Act out of the jurisdiction of the United States; who willfully mutilates, alters, or by any other means falsifies any such documentary evidence of any person subject to this Act; or who willfully refuses to submit any such documentary evidence to the Secretary for inspection and making shall be guilty of an offense against the United States, and upon conviction thereof shall be fined not more than $1,000, or imprisoned for not more than 3 years, or both.

(7) If any person required by this Act to file an annual or special report fails to do so within the time fixed by the Secretary, and his failure continues for 30 days after notice of his default, he shall forfeit to the United States $100 for each day such failure continues. Such forfeiture shall be recoverable in a civil suit in the name of the United States brought in any district where the person may be found, resides, or transacts business.

(8) The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this Act, and shall have jurisdiction in all other kinds of cases arising under this Act, except as provided in sections 6 (b) and (c) of this Act.

"(e) DETENTION AND SEIZURE.—The Secretary is authorized to—

"(1) detain for further examination any horse at any horse show, horse exhibition, or public horse sale or auction, which is sore, or which is suspected by the Secretary of being sore, for a period not to exceed 24 hours;

"(2) disqualify from competition at any horse show or horse exhibition any horse which he has probable cause to believe is sore or has any unsound limb;

"(3) prohibit the sale of any horse at any public horse sale or auction which he has probable cause to believe is sore;

"(4) seize any equipment, device, paraphernalia, or substance which he has probable cause to believe was used in violation of any provision of this Act or any regulation issued under this Act or which he has probable cause to believe contributed to the soring of any horse at or prior to any horse show, horse exhibition, or public horse sale or auction.".

SEC. 8. Section 11 of the Horse Protection Act of 1970 (15 U.S.C. 1830) is amended by striking out "twenty-four-calendar-month period" and inserting in lieu thereof "12-calendar-month period".

SEC. 9. Section 12 of the Horse Protection Act of 1970 (15 U.S.C. 1831) is amended to read as follows: "There are authorized to be appropriated to the Secretary for purposes of carrying out the provisions of this Act not to exceed $1,000,000 for the fiscal year ending June 30, 1976, $250,000 for the fiscal year transition period ending September 30, 1976, and $1,000,000 for the fiscal year ending September 30, 1977.".

NATIONAL SECURITY COUNCIL MEMBERSHIP FOR THE SECRETARY OF THE TREASURY

The bill (S. 2350) to amend the National Security Act of 1947, as amended, to include the Secretary of the Treasury as a member of the National Security Council, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the fourth paragraph of section 101(a) of such Act is amended by redesignating clauses (5), (6), and (7) as clauses (6), (7), and (8), respectively, and by adding after clause (4) a new clause (5) as follows:

"(5) The Secretary of the Treasury;".

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations of Roderick M. Hills, of California, to be a member of the Securities and Exchange Commission and Thomas S. Kleppe, of North Dakota, to be Secretary of the Interior.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

SECURITIES AND EXCHANGE COMMISSION

The assistant legislative clerk read the nomination of Roderick M. Hills, of California, to be a member of the Securiites and Exchange Commission.

THE NOMINATION OF RODERICK HILLS TO THE SEC

Mr. PROXMIRE. Mr. President, I rise today to oppose, reluctantly, the nomination of Mr. Roderick Hills to the SEC.

Last week the President sent to the Congress Mr. Hills' nomination to be a member of the Securities and Exchange Commission and announced his intention of appointing Mr. Hills to be Chairman if he is confirmed by the Senate. I am reluctant to oppose this nomination because Mr. Hills has a distinguished career in the law and in business. He is articulate and able. Further he is a charming and likeable person. And, so far as I know, he has absolutely no conflicts of interest or any past associations or incidents which would bar his confirmation.

But I find it necessary to oppose him for two very important reasons.

First, unlike almost every one of his predecessors, Mr. Hills has had absolutely no experience to qualify him for this particular job.

Second, he comes directly from the White House staff to head an "independent" agency. There is great danger that any such appointment will diminish the independence of the regulatory agencies. Mr. Hills has no independent political base. He has had no experience in the subject area. He will owe his position to one fact; namely, that he was the friend and counselor of the President.

REASONS FOR OPPOSITION

Let us examine my primary reason for opposing Mr. Hills—his lack of experience in securities regulation. The administration of our securities laws is, of course, a highly technical job calling for considerable professional expertise on the part of the Commissioners. For these reasons, previous Chairmen of the SEC have generally had a substantial background in securities law. For example a study by the Library of Congress shows that 15 of the last 18 SEC Chairmen have either been SEC Commissioners or members of the SEC staff before they became Chairman. Of the 15 with prior SEC experience, 12 were Commissioners and 3 held senior staff positions. This study does not count the first SEC Chairman, Joseph P. Kennedy, since there was no SEC prior to his appointment.

I ask unanimous consent that the study prepared by the Library of Congress at my request be inserted at this point in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., October 3, 1975.

To: Senate Committee on Banking, Housing, and Urban Affairs. Attn: H. Shuman.
From: Frederick M. Kaiser, Analyst, Gov.

ernment and General Research Division, (Frederick L. Scott, Assistant Division Chief)

Subject: Chairmen of the Securities and Exchange Commission.

The attached report is in response to your request for information regarding the background and professional experience of the chairmen of the Securities and Exchange Commission. As well, a brief biography of Roderick Hills, President Ford's nominee for the chairmanship, is included.

If I may be of further assistance, please call me at 426–5824.

CHAIRMEN OF THE SECURITIES AND EXCHANGE COMMISSION

This report focuses upon the chairmen of the Securities and Exchange Commission (SEC). Since its inception in 1934 under the Securities and Exchange Act (48 Stat. 381; 15 U.S.C. 78a and 78jj), the SEC has had nineteen chairmen. Because of time limitations, this report can only provide a brief account of the experience and background of each of the chairmen. The concentration is on their relevant governmental experience and professional training prior to assuming the position of chairman of the Commission. A brief biography of Roderick Hills, President Ford's nominee for chairman of the SEC, follows the biographical sketches for the chairmen. A concluding section summarizes some of the major findings regarding the professional experience and training of the Commission chairmen.

The following chart lists the chairmen of the Securities and Exchange Commission (in chronological order), the President who nominated them, the dates of membership on the SEC, and the dates of chairmanship of the SEC.

CHAIRMEN OF SEC

Chairmen, nominated by, dates of membership, and dates of chairmanship

Joseph P. Kennedy (D), Roosevelt, July 2, 1934 to September 23, 1935, July 2, 1934 to September 23, 1935.

James M. Landis (D), Roosevelt, July 2, 1934 to September 15, 1935, September 24, 1935 to September 15, 1937.

William O. Douglas (D), Roosevelt, January 31, 1936 to April 16, 1939, September 21, 1937 to April 16, 1939.

Jerome Frank (D), Roosevelt, December 27, 1937 to April 30, 1941, May 18, 1939 to April 9, 1941.

Edward C. Etcher (D), Roosevelt, December 3, 1938 to February 2, 1942, April 9, 1941 to January 20, 1942.

Granson Purcell (D), Roosevelt, June 17, 1941 to June 30, 1946, January 20, 1942 to June 30, 1946.

James J. Caffrey (D) Roosevelt (Truman),* May 2, 1945 to December 31, 1947, July 23, 1946 to December 31, 1947.

Edmund M. Hanrahan (D), Truman, July 22, 1946 to November 3, 1949, May 18, 1948 to November 3, 1949.

Harry A. McDonald (R) Truman, March 26, 1947 to February 25, 1952, November 4, 1949, to February 25, 1952.

Donald C. Cook (D), Truman, November 1, 1949 to June 17, 1953, February 26, 1952 to June 17, 1953.

Ralph H. Demler (R) Eisenhower, June 17, 1953 to May 25, 1955, June 17, 1953 to May 25, 1955.

J. Sinclair Armstrong (R) Eisenhower, July 16, 1953 to June 27, 1957, May 25, 1955 to June 27, 1957.

Edward N. Cadsby (R), Eisenhower, August 20, 1957 to August 4, 1961, August 20, 1957, to March, 26, 1961.

William L. Cary (D) Kennedy, March 27, 1961 to August 20, 1964, March 27, 1961 to August 20, 1964.

Manual F. Cohen (D), Kennedy (Johnson)*** October 11, 1961 to February 22, 1969, March 20, 1964 to February 22, 1969.

Hamer H. Budge (R) Johnson (Nixon),** July 8, 1964 to January 2, 1971, February 22, 1969 to January 2, 1971.

William J. Casey (R), Nixon, April 14, 1971 to February 1, 1973, April 14, 1971 to February 1, 1973.

G, Bradford Cook (R), Nixon, March 3, 1973 to May 16, 1973, March 3, 1973 to May 16, 1973.

Ray Garrett, Jr. (R), Nixon, August 6, 1973–August 6, 1973–.

BIOGRAPHICAL SKETCHES

Joseph P. Kennedy, the first chairman of the SEC (1934–35) and nominated by President Roosevelt, had been chairman of the board of Pathe Exchange, Inc. during 1929–1930 and was active in the field of corporate finance until his appointment to the SEC in 1934. He later served as chairman of the U.S. Maritime Commission, as U.S. Ambassador to Great Britain, and as chairman of a special commission relative to establishing the Department of Commerce.

James McCauley Landis had been a commissioner with the SEC since its inception, assuming the chairmanship in 1935 (1935–37). His extensive governmental experience prior to service with the SEC included law clerk to Justice Brandeis on the U.S. Supreme Court (1925), member of the Commission on Uniform State Laws of Massachusetts (1931), and membership on the Federal Trade Commission (1933–34). Receiving his LL.B. (1924) and S.I.D. (1925) at Harvard, Landis returned to his alma mater as a professor of law. During this period, he authored several books of related interest: Editor of "Selected Readings of the Law of Contracts" (1931) and author (with Felix Frankfurther) of "The Business of the Supreme Court" (1927).

William O. Dowglas succeeded Landis and, like his predecessor, was a member of the SEC one year prior to his appointment to the chairmanship (1937–39). Douglas had taught law at Columbia University, where he had received his LL.B. and edited the law review, and Yale University. His professional interests focused on bankruptcy studies, which he developed at the Yale Institute for Human Relations and on which he collaborated with the U.S. Department of Commerce. Immediately prior to his appointment to the Securities and Exchange Commission, Douglas directed a study for the SEC from 1934 to 1936. Before his service with the SEC, he authored a number of law journal articles and five books dealing with the business community, finance, corporate organizations, business partnerships, and management.

Jerome Frank served as the fourth chairman of the SEC (1939–41), after tenure of more than a year on the Commission as a member. Besides practicing law before joining the SEC, Frank was a research associate at the Yale Law School (1932). His governmental responsibilities included serving as special counsel to the City of Chicago in traction settlements (1921–25), general counsel to the Agricultural Adjustment Administration (1933–1935), general counsel to the Federal Surplus Relief Corporation (1933–1935), special counsel to R.F.C. in railway reorganization matters (1935). He had contributed articles to numerous law reviews and authored Law and the Modern Mind in 1930.

Edward C. Eicher, who succeeded Jerome Frank, again held membership on the SEC for over two years before becoming chairman (1941–42). His varied professional experiences included serving as registrar at the University of Chicago and as attorney of law both in private practice and for the C.B. and Q. Railroad. Immediately prior to his appointment to the SEC, Eicher represented his Iowa district in the House of Representatives, 73d through 75th Congresses (1933–39). In 1938 he was a member of the Temporary National Economic Committee.

Granson Purcell was the last chairman of the SEC (1942–46) named by President Roosevelt, again serving in that was becoming an "apprenticeship," as a member of the SEC for six months before being selected as chairman. Having earned his LL.B. at Harvard in 1930, Purcell was admitted to the bar of the Supreme Court, D.C. (1931); Court of Appeals, D.C. (1931); Supreme Court of the United States (1937). Purcell was a law assistant on the staff of the legislative counsel to the United States Senate (1930–32) and assistant legislative counsel from 1932 to 1934. Prior to membership on the SEC, he served as an attorney on the legal staff of the Commission (1934–36) and as assistant director and then director of the trading and exchange division of the SEC (1936–37) and 1937–41, respectively.

James J. Caffrey was the final Roosevelt nominee to the Securities and Exchange Commission to eventually become chairman (1946–47). His appointment as chairman, however, was affected by President Truman in 1946, following SEC membership of one year. He practiced law in Massachusetts after receiving the LL.B. from Harvard and prior to his governmental experience. Caffrey in 1935 was trial counsel to the National Recovery Administration and in 1935–36 was an attorney on the general counsel staff of the SEC. He served in another capacity with the SEC as well—administrator, the Boston regional office (1935–38) and the New York regional office (1939–45).

Edmond D. Hanrahan, the first Truman nominee as member and chairman (1948–49) of the SEC, continued the trend of being a member of the Commission for nearly two years before chairing it. Hanrahan had been a member of the bar of New York and practiced law in New York City.

Harry A. McDonald assumed the chairmanship (1949–52) of the SEC after nearly three years as a commissioner. He had spent a lengthy period of time in private business and as an investment banker (1919–1932), after receiving the Ph.D. from the University of Chicago (1917). McDonald was also active in governmental affairs, as chairman of the Commission (1939–41) and member (1930–36) and chairman (1936) of the Michigan State Fair Board.

Donald C. Cook was the final Truman appointee to the chairmanship (1952–53) of the SEC and continued the practice of previous Commission membership (for more than two years in this case) before the appointment. After receiving his M.B.A. from the University of Michigan in 1935, Cook received the J.D. (1939) and L.L.M. (1940) from George Washington University. His governmental experience was varied, including service as financial examiner in the registration division of the Securities and Exchange Commission (1935–36) and utilities analyst in the public utilities division on the Commission (1937–42), a division in which he was assistant director (1943–45). He also served as special counsel to the Committee on Naval Affairs of the U.S. House of Representatives (1943–45) and for a period of time as chief counsel to the preparedness subcommittee of the Senate Armed

* James J. Caffrey was nominated by President Roosevelt for membership on the SEC but was named Chairman by President Truman in 1946.

*** Manuel F. Cohen was nominated for SEC membership by President Kennedy but appointed Chairman of the SEC by President Johnson in 1964.

** Hamer H. Budge was nominated for membership by President Johnson in 1964 but was named Chairman of the SEC by President Nixon in 1969.

Services Committee. Cook also was executive assistant to the Attorney General of the United States (1945–46) and directed the Office of Alien Property (1946–47). Relevant memberships included the Michigan Bar Association and the American Accounting Association. Cook became a certified public accountant in 1940.

Ralph H. Demmler was the first nominee of President Eisenhower to the chairmanship (1953–55) of the SEC and the first to become chairman without previous SEC membership (except, of course, for the initial chairman of the Commission). Demmler had limited political experience, save for being a member of school boards in the Pittsburgh, Pa. vicinity. However, he was a member of the American, Pennsylvania, and Allegheny County bar associations and chaired the committee on legal education of the last of the three. He also was a faculty fellow in the School of Law, University of Pittsburgh, in 1923, where he received the LL.B. the same year.

J(ames) Sinclair Armstrong was the second of three Eisenhower nominees. He also served as a member of the SEC for two years before becoming chairman (1955–57). A graduate of Harvard (1938) and Harvard Law (1941), Armstrong continued as a graduate student in the School of Commerce at Northwestern University (1942–44). His military service included assignment to the office of general counsel, Navy (1945–46). Armstrong was admitted to the bar of New York (1941), Illinois (1941), U.S. District Court, U.S. Court of Appeals, and U.S. Supreme Court, prior to membership on the Commission.

Edward N. Gadsby was the final Eisenhower nominee as chairman (1957–61). Gadsby's professional experience was in law and state regulatory activity. He earned the J.D. at New York University in 1929. He was admitted to the New York and Massachusetts bars and was a member of the Massachusetts and American bar associations prior to the SEC chairmanship. Gadsby's governmental experience was primarily on the state level, serving as commissioner of the Massachusetts Department of Public Utilities (1947–52), as chairman (1947–49), and after the end of his term, as counsel (1952–56). Gadsby, interestingly, remained on the Commission for five months following the end of his term as chairman. (This was during the Kennedy Administration and the successor chairman was nominated by President Kennedy.

William L. Cary, one of two appointments by President Kennedy, assumed membership and chairmanship (1961–64) at the same time. However, his extensive governmental experience included a staff assignment with the SEC in 1938–40. Following the duty, Cary served as special assistant to the Attorney General, Tax Division of the Justice Department (1940–42) and as counsel in the Office of Coordinator for Inter-American Affairs (1942). In 1951 he was deputy department counsellor for procurement for the Army. During the late 1940's and 1950's, Cary was a lecturer in finance and law at the Harvard Graduate School of Business Administration (1946–47), a professor of law at Northwestern University School of Law (1947–55), and Columbia (1955–61), and a visiting professor at the University of California at Berkeley, Stanford, and Yale. Cary received the LL.B. from Yale in 1934 and M.B.A. from Harvard in 1938.

Manual F. Cohen, appointed chairman (1964–69) by President Johnson, served as a commissioner for nearly three years before heading the SEC. He also had served with the Commission in various capacities during the previous decades—on the legal staff from 1942–1952, chief counsel of the division of corporate finance (1952–59), adviser to the Commission (1959–60), and director of the division of corporate finance (1960–61). He also was a member of the council of the Administrative Conference, United States (1961). Cohen earned the LL.B. cum laude from St. Lawrence University in 1936, lectured at the George Washington Universty Law School, and authored numerous articles in professional and legal journals. He was a recipient of the Rockefeller Public Service award in 1956 and the National Civil Service League Career Service award in 1961.

Hamer H. Budge was nominated for membership on the SEC by President Johnson and served as Commissioner for more than four years before being appointed chairman (1969–71) by President Nixon in 1969. His professional background includes private legal practice in Idaho, following receipt of the LL.B. from the University of Idaho (1936), and membership in the Idaho Legislature, where has was majority floor leader. Budge represented the 2d District of Idaho in the U.S. House of Representatives from the 82d through the 86th Congresses.

William J. Casey served on the SEC exclusively in the capacity of chairman (1971–73). Nominated by President Nixon, Casey previously served as a member of the General Advisory Committee on Area Control (1969–70), as a member of the Presidential Task Force on International Development (1969–70), and as president of the International Rescue Committee (1969–70). A trustee of Fordham University (1966–71) where he had received his A.B., Casey had been chairman of the board of editors of the Research Institute of American (1938–49) and chairman of Institutional Business Planning (1953–79). He received the LL.B from St. John's Law School in 1937 and authored several relevant books, including the "Lawyers Desk Book" (1965), "Tax Shelter Investments" (1952), and "Forms of Business Agreements" (1966).

G(eorge) Bradford Cook, one of four nominees of President Nixon to the chairmanship of the SEC (1973), served briefly for two months in that capacity. Prior to chairing the Commission, Cook had been general counsel and director of the then new Division of Market Regulation of the SEC for two years (1971–73). He joined the Commission staff at the behest of then-Chairman William Casey, whom Cook succeeded. Prior to his service with the SEC, Cook gained experience in securities law as a partner in the Chicago law firm of Winston and Strawn, specializing in corporate and securities law.

Ray Garrett, the present SEC chairman, was nominated for the position in 1973 by President Nixon. Although he had not been a member of the Commission prior to his appointment as chairman, he had been a staff member for a five year period in the 1950's. Garrett had been associate executive director of communications and director of the division of corporate regulation during the 1954–58 period. Having received the LL.B. from Harvard in 1949, he was admitted to the Illinois bar (1952) and the U.S. Supreme Court bar (1957). He taught at Harvard Law School (1949–50) and as assistant professor at the New York University School of Law (1950–52). While in private practice, Garrett was an active member of the American Bar Association. He served as chairman of the Advisory Committee for Corporate Debt Financing projects of the American Bar Foundation (1965), as a member of the Board of editors of the American Bar Association Journal, and as a consultant to the "Reporter" for the American Law Institute's Federal Securities Code project.

Roderick Hills, President Ford's nominee for the SEC chairmanship, has served in government as White House Counsel during 1975. As deputy to chief counsel Philip W. Buchen, Hills has acted as liaison on exchanges of information to the Rockefeller Commission and to the House Select Committee on Intelligence. Since mid-June, Hills has headed a Presidential task force on regulatory reform, titled the Domestic Council Review Group for Regulatory Reform.[1] Prior to this executive branch experience, Hills was a former chairman of Republic Corporation and a founding partner in the law firm of Munger, Tolles, Hills, and Rickershauser (1962–75). Hills received his LL.B. from Stanford University and served as a law clerk to Supreme Court Justice Stanley Reed (1955–57).

By way of summary, even the abbreviated biographies of the SEC chairman reveal common characteristics of background and professional experience. Most obvious is the "apprenticeship" on the Commission prior to selection as chairman. Excluding the initial chairman, twelve of the remaining eighteen chairmen had been commissioners before becoming chairmen of the SEC. In addition, three of the five who were not members of the SEC before chairing it had been staff members of the Commission. Thus, a total of fifteen of the eighteen chairmen who had the opportunity had been formally affiliated with the SEC before assuming the chairmanship. Eight of the eighteen had served on the staff of the Commission prior to their appointments as commissioners or chairmen.

Moreover, all of the chairmen had experience in elected office or administrative governmental positions before assuming the chairmanship. The legal profession dominates the educational backgfround of the chairman, with several having been admitted to the bar of the U.S. Supreme Court, authors of relevant articles and texts, instructors at law schools, and active members of the American Bar Association.—FREDERICK M. KAISER, Analyst in American National Government, Government and General Research Division, October 3, 1975.

DEPARTURE FROM TRADITION

Mr. PROXMIRE. The Hills nomination is a sharp departure from this tradition. Such a departure might be justified if Mr. Hills had extensive experience as a securities lawyer, or if he had served as a State security regulator, or if he had taught securities law at a university, or if he had written scholarly articles on the administration of our securities laws. But Mr. Hills has done none of these things. By his own admission during his confirmation hearings, his legal background is primarily in corporate and labor law and not securities law.

PRESENT SEC A STRONG AGENCY

I have followed the SEC very closely in recent time. I am Chairman of the Banking Committee which has primary jurisdiction over its legislation. I am chairman of the Subcommittee of the Senate Appropriations Committee which until this year has had jurisdiction over its funds. At the present time I believe the SEC is the strongest and the best regulatory agency in the Government. It is one of the few which is not dominated by the

[1] A survey of the efforts of this task force is available in and article by Richard Cohen, "Regulatory Report/Ford building framework for attempt to change policy," National Journal Reports, July 26, 1975, pp. 1078–1083.

industry it regulates. It has an extremely strong and able staff.

And one of the reasons this agency is so strong and effective is its history and tradition and pride. And a very important part of that history is the fact that almost every chairman in its history has been an experienced man.

I am puzzled by the attitude of some that it is alright and even desirable to head up departments and agencies with persons who have had no previous experience at all. This is the British idea that anyone who has had a training in Greek and Latin is equipped to make foreign policy. But the effect is often the other way around. It takes months and years of on-the-job training before the man or woman becomes effective. And it puts far too much power in the hands of the bureaucracy when the top man or woman is unsure of his or her actions for months upon end.

POLICY NOT APPLICABLE IN OTHER AREAS

Society would not dream of taking such action in other areas.

For example, it would be considered outrageous to appoint an inexperienced person to:

Manage Muhamad Ali;

To coach the Redskins;

To manage the New York Yankees;

To serve as the Senate Parliamentarian;

To command an aircraft carrier;

To operate a dairy farm;

To run the mortgage loan department of a bank in Oshkosh;

To sell farm equipment in Fargo, N. Dak.

If we demand experienced professionals in all of these jobs, why, then is the chairmanship of the SEC which requires a far greater degree of technical competence any different? I believe it is time for the Congress to set higher standards of excellence in the Federal service. It is time to put an end to the erroneous notion that talented amateurs can run major departments of government. This was not true in the 19th century. And Heaven knows, it is not true today.

SEC FACES CRITICAL CHALLENGES

Mr. President, the SEC faces its most critical challenge in its 42-year history. The Congress has just passed a series of far-reaching amendments to our securities laws. These revisions call upon the SEC to make a number of critical judgments to protect investors and to improve the operation of our securities markets. The Commission must help guide the development of a central market system; it must impose new controls on municipal bond underwriters; it must monitor the transfer to a competitive commission rate system; it must put an end to restrictive trade rules and practices; and it has a continuing responsibility to eliminate conflicts of interest in the securities industry. All of these issues are extremely controversial, extremely complex, and extremely difficult. Accordingly, this is no time to have an amateur to head the SEC, no matter how able he might be in other areas.

RELATIONSHIP TO WHITE HOUSE AND THE INDEPENDENCE OF THE SEC

Mr. President, the second reason I oppose the nomination of Mr. Hills to the chairmanship of the SEC is because of his close association with the White House. Mr. Hills now serves as counsel to the President and is the principal White House spokesman on the issue of regulatory reform. Now I have no doubt that many of our regulatory agencies need to be reformed. In fact, some of them can be abolished. However, properly limiting the immense power of the Presidency to keep our institutions independent, while permitting a strong President is one of the great challenges of our Government. How independent can the SEC be, when the President or member of the White House staff can call its chairman, and urge him, as their former staffer, to modify a rule or regulation to conform to the latest White House party line? The SEC is an independent regulatory commission exercising legislative powers delegated to it by the Congress. It is not an arm of the executive branch created to do the bidding of the White House.

INDUSTRY AFTER THE SEC

Why is this issue so important at this time? The fact is that the securities industry is now making a major effort to reduce the power and authority of the SEC.

The SEC has a tough regulatory and enforcement staff which is acting in the public interest. As a result, it is the subject of charges from the industry day in and day out. Some of them, including that the staff is too tough on industry attorneys, appear to be foolish or absurd. I know of no attorneys who are not able to take care of themselves. What has happened is that this Agency, instead of acting like a toothless tiger, is actually functioning on behalf of the consumer and the investor and the general public.

Secondly, there is a major issue before the SEC now as to whether or not companies who have made bribes and illegal political contributions, shall have to disclose those facts.

I ask unanimous consent that an article from the Sunday, October 5, 1975, New York Times entitled "SEC's Tough Guy" outlining these issues be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PROXMIRE. On the same page another article points out that Mr. Hills is "inexperienced in securities law."

THE POINT ABOUT HILLS NOMINATION

Now here is the major point about the Hills nomination. The SEC is under attack from business and Wall Street. We all know that. They are under attack because they are doing a first-rate job.

Second, the Ford administration has been the spokesman and ally of big business, major companies in the military-industrial complex who have bribed officials abroad, and the banking and industrial firms, Wall Street brokers, and others who make up the financial community.

Third, the President has appointed to that Commission an able and intelligent White House lawyer who has had little or no experience in the securities area—either in the industry, on a regulatory commission, or as an academic expert. The appointee has no political base or standing of his own. He is entirely dependent for his position on the support of the President.

Fourth, the question then becomes how tough will this new Chairman be? Where will he stand in the struggle between first-rate, tough, intelligent regulation, on the one hand, the pressures from the industry and the White House on the other?

Remember too, that we are entering an election year when the pressures, may be even tougher than before.

Will this man with no experience and no independent standing be able to take the heat in the kitchen without flinching and without giving in, compromising, or weakening what is now a first-rate regulatory commission.

That is the question and that is the issue that the Hills nomination represents.

Now I am sure that Mr. Hills is a man of character and integrity who will do what he regards to be in the public interest. However, our perception of the public interest is inevitably shaped by our past associations and experiences. Given Mr. Hills' association with the White House, it will be extremely difficult for him to exercise the independent judgment that Congress had in mind when it created the SEC.

Mr. President, I take a much stricter view of the proper role of the Senate in advising and consenting to nominations than my colleagues. Therefore, I have no doubt that the nomination of Mr. Hills will be approved by the Senate. Nonetheless, I do want the record to reflect my opposition to the nomination for the reasons I have indicated. Even though Mr. Hills will be approved, I believe we must begin building the case for better qualified appointees so that in the future, our departments and agencies will be run by those who are best able to do the job.

Mr. President, the New York Times for today, Thursday, October 9, 1975 has an editorial on the nomination of Mr. Hills and other recent appointees.

It makes precisely the points I have made today, namely that Mr. Hills is almost entirely inexperienced for the job he is appointed to and that he comes directly from the White House to an independent agency which above all should eschew pressures from the White House, from Congress, and from institutions it regulates.

I ask unanimous consent that this fine editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TWO DOWN . . . AND TWO TO GO?

Roderick M. Hills is an experienced and personable lawyer. He has served for the last several months as counsel to President Ford,

and he is also the husband of Carla A. Hills, the Secretary of Housing and Urban Development. By his own admission, he knows very little about the securities industry or about the day-to-day work of the Securities and Exchange Commission. Yet President Ford has nominated Mr. Hills to be chairman of the S.E.C.

The Small Business Administration would make any list of the three worst-run Federal agencies. Under the guidance of Thomas S. Kleppe, an amiable North Dakota businessman-turned-politician, the S.B.A. has continued for the last four years along its customary path of slothful incompetence. President Ford has now nominated—and the Senate is about to confirm—Mr. Kleppe for the far more substantial post of Secretary of the Interior.

Because Mr. Hills is highly intelligent, he could be expected gradually to learn the ropes of his important new job. But as Senator Proxmire, Wisconsin Democrat and chairman of the Senate Banking Committee, observed in opposing Mr. Mills' confirmation, 14 of the 19 men who have headed the S.E.C. had previously served either as a commissioner or as a senior staff member. Others were qualified as academic experts on securities law. Thus, the Hills appointment breaches a tradition of demonstrated competence in a complex field. Mr. Hills could better serve elsewhere in Government.

Similarly, Mr. Kleppe is in no way qualified to head the vast Interior Department with its numerous and diverse responsibilities. His dim record on environmental issues as a member of the House and his mediocre career at S.B.A. should have been enough to disqualify him.

As if the Hills and Kleppe appointments were not sufficient cause for concern, President Ford has chosen two other nominees for significant posts whose qualifications—or lack of them—are even more disturbing.

For chairman of the Federal Home Loan Bank Board Mr. Ford has nominated former Representative Benjamin B. Blackburn of Georgia. Only the President's partiality for an old House pal could explain this appointment. Mr. Blackburn showed himself in Congress not only to be an extreme reactionary but also one whose ideological zeal and lack of judgment made him conspicuous.

If cronyism explains the Blackburn nomination, nothing can justify it. The Home Loan Bank Board regulates the thousands of savings-and-loan associations across the country whose integrity and stability are vitally important to millions of shareholders and to the housing industry that depends upon the S-and-L's for mortgage money. The Home Loan Bank Board chairmanship is no place for on-the-job training.

Equally depressing is President Ford's selection of James F. Hooper to fill a vacancy on the three-member board of the Tennessee Valley Authority. Mr. Hooper has been a tree farmer and a dairy cattle raiser. His chief claims for appointment seem to be that his wife is the G.O.P. national committeewoman from Mississippi, and Mississippi Republicans want some recognition.

The Senate Public Works Committee has held up the Hooper nomination for more than three months while it explores allegations concerning the bankruptcies of various business firms in which he has been involved. But even if all the details of these business reverses are satisfactorily explained, the real weight of the opposition to his confirmation would still remain. That is Mr. Hooper's unfamiliarity with most of the critical issues that now confront the giant T.V.A. public utility.

Inexperience, mediocrity, cronyism—these are the distinguishing features of too many of President Ford's appointments to high office. If the President continues unmindful of the seriousness of his attitude, the Senate has a duty to defend the public service by rejecting these nominations.

EXHIBIT 1

S.E.C.'s TOUGH GUY

(By Robert M. Smith)

WASHINGTON.—Listening to Stanley Sporkin talk is like watching a good tennis game. Your head goes back and forth, as he paces restlessly up and down in his plain fourth-floor office at the Securities and Exchange Commission.

Can this roly-poly, intense, nonstop middle-aged man be the terror of the securities industry, of those high-price Manhattan lawyers and their corporate clients?

Can this chunky, 43-year-old with clothes that look as if they are going to burst at any moment be at the center of a drive to make America's biggest companies embarrass themselves by telling whom, how and when they bribed overseas?

Worse, is Mr. Sporkin—certified public accountant, lawyer and chief of the S.E.C.'s Enforcement Division, operating without legal authority, failing to observe due-process standards and browbeating corporations into admissions of guilt by not providing guidelines on what they do have to confess?

The way Mr. Sporkin tells it, this is all nonsense. His favorite word these days is "smokescreen," as in, "that charge is clearly a smokescreen to impede the commission from doing its work." "It's an old tactic that we have seen time and time again—that when you have a very poor case, you try to attack the investigative agency."

Everyone, including his secretary and subordinates, calls Mr. Sporkin Stanley in part because he is so roughhewn, in part because he eschews bureaucracy, and in part because he casts a powerful net of direct, manly cordiality around comrades and colleagues as a hard-driving basketball coach whose players are a foot shorter and a lot poorer than their constant rivals, the corporate corrupters.

As you would expect, any team and any coach who are the underdogs in frequent contests with the corporate corrupters get a pretty good press. But recently Mr. Sporkin has been having a little problem with the press, and—while he will not say it for the record—that bothers him.

While it may seem strange to talk about Mr. Sporkin rather than the commission—those five Presidential appointees who are his bosses—lawyers representing corporations with securities problems deal with him and he serves as the filter for the commission, deciding which enforcement matters will go to it. It is also Mr. Sporkin who often initiates such policies as the forced disclosure of corporate bribery. Many things some of those lawyers say about Mr. Sporkin are unkind, not to say slanderous; in their more generous moments, they simply call him unreasonable.

Those who work at the S.E.C. do not see Mr. Sporkin as unreasonable—or at least they do not put it that way. "He gets emotional and messianic when he talks about issues," one staff member said.

He added that he felt that the commission did not give Mr. Sporkin's recommendations enough scrutiny and that S.E.C. employes hesitated for a long time before arguing with Mr. Sporkin over something he felt strongly about.

"He is apt to simplify and emotionalize issues to the point where he is Mr. Goody and everybody else is evil," the staff member said. "In it takes a rare institutional courage to oppose him."

There are two basic kinds of criticism being directed at Mr. Sporkin and his agency.

The first and more general concerns whether the S.E.C. is dealing fairly with lawyers and the adversary process in which they participate.

The second is whether the S.E.C. should make companies disclose that they have either made illegal political contributions in this country or paid bribes to foreign officials and political parties or who they paid.

In his recent book, "Lawyers' Ethics in an Adversary System," Monroe H. Freedman, dean of the Hofstra University Law School, said:

"The S.E.C. has succeeded in intimidating the attorneys who appear before it, with the result that zealous advocacy has been sharply curtailed in securities matters,"

Mr. Freedman charged that the commission had asserted that lawyers owed a higher duty to it than to their own clients; rewarded cooperative lawyers by letting them appear before it "at a critical stage of the proceedings before their clients," an opportunity denied other lawyers; engendered a "climate of fear" among lawyers practicing before it by threatening that they would be prosecuted for failing to inform it of possibly incriminating information about their clients, and instituted its own disciplinary proceedings against lawyers who displeased its staff members.

While Mr. Sporkin would obviously not be responsible for all these alleged evils, the allegations from a general backdrop in which he has to work.

The enforcement chief is unequivocal in his denials. "Nobody has ever substantiated those charges," he said. "They are clearly a smokescreen.

Mr. Sporkin's language oscillates. When he speaks, man-to-man, off the record, it is direct, vigorous and salty. When he speaks for the record, the lawyer emerges, and a very tight wrapping of balanced legalisms almost but not quite obscures his soul, or at least his fire.

For example, regarding the criticism that the S.E.C. was exceeding its jurisdictional authority by requiring companies to disclose their contributions and bribes, Mr. Sporkin said for the record:

"The shareholders [whom the S.E.C. is supposed to protect] are entitled to know about the quality of the company's earnings and the risks associated with the business. If there is anything that is material, it is certainly information that pertains to the quality of a company's earnings and the high-risk methods of a company's doing business.

"If a company has to obtain business through bribery and other nefarious means, the risk of the earnings statement is substantial if it becomes impossible to continue to do business that way or if it is disclosed that the company is doing business that way and it cannot any longer."

Companies that the S.E.C. has forced to make public the extent of their domestic or foreign payments to politicians and parties include American Ship Building, Ashland Oil and Northrop.

Currently on the S.E.C. griddle is Lockheed Aircraft. Lockheed argues that what is important is the "nature" of the at least $22-million in payments it has made since 1970 to foreign Government officials and political parties. Translated, that means Lockheed badly does not want to make public the names of its foreign recipients, presumably on the theory that embarrassed Government officials would not renew contracts with the same manufacturer and might be so angered as to cancel current contracts.

Senator Clifford P. Case of New Jersey, the ranking Republican on a Senate subcommittee also has been looking into the foreign payments, said in a recent interview that, while Lockheed's conduct was "certainly immoral and probably illegal," he was not sure the subcommittee should force the company to disclose the names of the recipients. "The

main thing," he added, "is to get at the practice," not the culprits.

While there is a difference in purpose between the subcommittee and the S.E.C., the remark is typical of some sentiment here.

There is no question that Mr. Sporkin has problems. One is the small size of his staff (200 to 250 lawyers around the country) relative to the enormous job of policing the securities laws. Another is his fear—some in his own agency regard it as paranoia—that big business and big law are out to do him and the S.E.C. in, tying them up in a tangle of restrictive procedures.

Still another is his feeling that law-enforcement agencies such as his own are in such disfavor because of abuses disclosed during Watergate that "the pendlum has swung too far to the side" and the S.E.C. will not get the public support it needs to police big business.

On the other hand, the enforcement director has some powerful advantages: an energetic and loyal staff, a securities market that relies on investor confidence that in turn relies on the work of his agency, considerable statutory power and, by no means least, his own reputation for honesty.

Honesty is a crucial quality in an agency like the S.E.C., which is in constant touch with corporations that sometimes have both the incentive and means to bribe civil servants or make illegal political contributions.

Thus, the commission's departing chairman, Ray Garrett Jr. was brought in to revive the S.E.C.'s reputation in the wake of scandals that involved allegations of improper treatment of individuals and businesses that had found favor with the Nixon Administration.

Honesty is perhaps a particularly important quality in the Enforcement Division since it begins investigations into potentially wrongful corporation behavior with a view toward civil or administrative proceedings. In the last fiscal year, a third of the commission's budget went to finance the Enforcement Division's activities.

Whatever makes Mr. Sporkin endlessly complain, negotiate, excoriate, vituperate, expound and sometimes sue, it is not money—he earns $36,000 a year.

Mr. Sporkin has a wife, who is trying to establish herself as an artist, a daughter in her second year at Vassar and two younger sons.

He would someday like to be a judge. (His father is a common-pleas judge in Pennsylvania.) It is worth noting that the road to judgeships is not infrequently paved with vigorous, honest public service—particularly in areas that, like bribery, excite public interest.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR

The assistant legislative clerk read the nomination of Thomas S. Kleppe, of North Dakota, to be the Secretary of the Interior.

Mr. MANSFIELD. Mr. President, I yield to the distinguished Senator from North Dakota (Mr. YOUNG).

Mr. YOUNG. Mr. President, this is a very important and meaningful day for us in North Dakota. If Tom Kleppe is confirmed by the Senate as Secretary of the Interior he will be the first Cabinet Member North Dakota has ever had. I cannot help but believe that he will be an excellent Secretary of Interior. His whole background, experience and make-up ideally qualify him for this very important and difficult assignment.

Tom Kleppe's whole life is characterized by success. His is a most outstanding record. His has been a rural, outdoor life which has created in him a very special interest in most of the important activities of the Department of Interior.

From an employee he rose to president of the Gold Seal Co., where he frankly admits he did well financially for both himself and the company.

Tom Kleppe has established an honorable and enviable record in everything he undertook, both in private business and public life. He was a highly esteemed mayor of the city of Bismarck, N. Dak., and the youngest mayor they ever had. From this first public office he was elected to the U.S. House of Representatives, where he served with distinction for two terms. His record and experience as a Member of the House will be very helpful to him as Secretary of the Interior.

Following his service in the House, he became Administrator of the Small Business Administration, in which capacity he has served for almost 5 years. His record as Administrator again is commendable and I think the best in that agency's history. I had always wanted the Small Business Administration to be more progressive in its loan policy.

Nearly half of all the business loans made by SBA in its 22-year history have been made during Tom Kleppe's 4½-year administration. The SBA has, in that period, made 122,000 business loans for $7.9 billion. This is what the agency was set up for—to help small businessmen—and he has done a good job of it.

I draw your attention to one particular loan which is typical of Tom Kleppe. An SBA loan program for minority groups made possible a manufacturing plant on the Fort Totten Indian Reservation in North Dakota. As a result of this loan to the Devils Lake Sioux Tribe, the Brunswick Corp. established a sizable manufacturing plant on this Indian reservation.

Tom made the biggest SBA loan ever at that time to a minority group. This has proved to be a good loan. This industry, which eventually will be owned entirely by the tribe, is doing very well. It not only provides many jobs for needy Indians, but at the same time has reduced welfare payments by a very substantial amount on this reservation.

I cite this particular loan because it is so typical of Tom Kleppe. It did not take him forever to make this decision. One of Tom Kleppe's outstanding characteristics is that he is a decisionmaker and I do not know of any department of Government where we need a decisionmaker more than the Department of Interior. He is the kind who will listen to both sides of every controversy but when he makes a decision he will fight hard for that position.

North Dakota is a State that is deeply involved in all of the varied functions of the Interior Department. We are the No. 1 duck propagation State. The management of our wetlands and large game reserves come under the jurisdiction of the Fish and Wildlife Service, a part of the Department of Interior.

We have four Indian reservations which are closely related to the activities of the Bureau of Indian Affairs, an agency of Interior. We have one of the most beautiful national parks in the Nation—Theodore Roosevelt National Memorial Park, administered by the National Park Service.

North Dakota is a major coal State. We have huge deposits of low-sulfur lignite coal which is strip mined, primarily for the production of low-cost power. Over half of the coal deposits in our State are owned by the Federal Government. We are a sizable oil- and gas-producing State and the Interior Department administers the leasing of much of this land. The Forest Service and the Bureau of Land Management control thousands of acres of Federal land in North Dakota.

We have one of the largest mainstem dams on the Missouri River, Garrison Dam, which generates vast amounts of hydroelectric power, marketed by the Bureau of Reclamation, an agency of Interior.

North Dakota is one of the 17 reclamation States and our interest in reclamation goes back about when we first became a State. In fact, the basic Reclamation Act of 1902 was sponsored on the Senate side by the late Senator Henry Clay Hansbrough of North Dakota.

Mr. President, having lived his life in a State that has all this close involvement with the Interior Department and its agencies, along with his excellent administrative and legislative experience, ideally qualifies Tom Kleppe to be Secretary of the Interior.

Tom Kleppe has received strong and bipartisan support from the whole upper Midwest area. Governor Link of North Dakota and Governor Kneip of South Dakota speak well of this nomination. Former Governor William L. Guy of North Dakota, who is now executive director and spokesman for 10 western Governors through their Energy Policy Council, also praised the Kleppe nomination.

Mr. President, I cannot help but feel that if Tom Kleppe is confirmed by the Senate he will make an outstanding Secretary of the Interior. North Dakota would be happy and proud if he is confirmed and I sincerely hope he will be.

Mr. BURDICK. Mr. President, I join my colleague in recommending the approval of the nomination of Thomas S. Kleppe to the office of Secretary of the Interior. I believe he has the necessary qualifications for the office, and I ask my colleagues to consent to the nomination.

Mr. DURKIN. Mr. President, I oppose the nomination of Mr. Thomas Kleppe to serve as Secretary of the Interior.

I oppose his nomination for three reasons: First, his lack of background in the crucial area of natural resources management; second, a Civil Service Commission report which charged that Mr.

Kleppe, while serving as the Director of the Small Business Administration, responding to political pressures and acting contrary to law, acquiesced, in 1973, in easing out of office the District Director in Concord, N.H., Mr. Josephat Benoit; and third, it is time for President Ford to reach beyond the circle of Nixon cronies to staff and direct major governmental departments.

Strong and effective leadership is needed at the Interior Department to meet the economic, energy, and environmental needs of this country. I am not optimistic that such leadership will be forthcoming from Mr. Kleppe. Certainly his tenure at SBA gives no indication that he has the ability or the inclination to resist political pressures and stand up to the oil octopus which cherishes the idea of ravishing our planet in its search of bloated profits.

Mr. President, the Civil Service Commission, in a report entitled "A Report on Alleged Political Influence in Personnel Actions of the Small Business Administration," dated August 19, 1974, charged that the SBA, while Mr. Kleppe was Director, in response to "political pressures" acted in violation of Civil Service Rules in easing Mr. Josephat Benoit out as District Director of the SBA in Concord, N.H. The report further stated that the SBA's approach to the staffing of these Director positions was contrary to, and involved violations of law.

Mr. Josephat Benoit, a dedicated and outstanding public servant, served as the mayor of Manchester, N.H., for 18 years, prior to his many years of exemplary service as District Director. In easing Mr. Benoit out of office as District Director in Concord, N.H., the Small Business Administration, while Mr. Kleppe was Director, acted contrary to the letter and spirit of Civil Service Regulations. Such conduct should not be condoned, let alone rewarded with appointment as Secretary of the Interior.

Finally, Mr. President, it is high time that President Ford look beyond the small circle of Nixon cronies for his high level appointments. Already too many Nixon cronies are still occupying too many high-ranking Government positions.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. YOUNG. Mr. President, I ask unanimous consent that the President of the United States be notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

VETERANS' ADMINISTRATION PHYSICIAN AND DENTIST PAY COMPARABILITY ACT OF 1975

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 8240.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 8240) to amend title 38, United States Code, to provide special pay and incentive pay for certain physicians and dentists employed by the Department of Medicine and Surgery of the Veterans' Administration in order to enhance the recruitment and retention of such personnel, and for other purposes, as follows:

In lieu of the matter proposed by the Senate engrossed amendment, insert:

That this Act may be cited as the "Veterans' Administration Physician and Dentist Pay Comparability Act of 1975".

SEC. 2. (a) The Congress hereby finds and declares (1) that the ceiling on the salary of physicians employed in the Department of Medicine and Surgery due to the Federal salary limitation under the Executive Schedule rates of pay in title 5, United States Code, accompanied by the sharp escalation in the cost of living since those rates of pay were last increased in 1969, has seriously impaired the recruitment and retention of qualified physicians by the Department of Medicine and Surgery in the Veterans' Administration; and (2) that the compensation provided to physicians and dentists in the Department of Medicine and Surgery has been rendered noncompetitive by virtue of the payment of special pay of up to $13,500 per annum, in addition to basic compensation and other benefits, to certain medical officers, and monthly special and continuation pay cumulating appropriately half such amount to certain dental officers, of the uniformed services, pursuant to title 37 of the United States Code and Public Law 93-274. The Congress further finds and declares that these recruitment and retention difficulties have created an inequitable and demoralizing situation in the Department of Medicine and Surgery that threatens to erode seriously the ability of the Department to compete for the services of necessary health care professionals and thereby to continue to provide quality health care to eligible veterans.

(b) Section 4107 of title 38, United States Code, is amended by—

(1) striking out the comma and "other than Chief Medical Director and Deputy Chief Medical Director," after "title" in the first sentence of subsection (a);

(2) striking out in subsection (a) the following:

"Associate Deputy Chief Medical Director, at the annual rate provided in section 5316 of title 5 of the United States Code for positions in level V of the Executive Schedule.

"Assistant Chief Medical Director, $41,734.

"Medical Director, $36,103 minimum to $40,915 maximum.

and inserting in lieu thereof the following:

"Chief Medical Director, $54,000.

"Deputy Chief Medical Director, $52,000.

"Associate Deputy Chief Medical Director, $50,000.

"Assistant Chief Medical Director, $48,654.

"Medical Director, $42,066 minimum to $47,674 maximum.";

(3) amending the Physician and Dentist Schedule in section (b) (1) to read as follows:

"PHYSICIAN AND DENTIST SCHEDULE

"Director grade, $36,338 minimum to $46,026 maximum.

"Executive grade, $33,736 minimum to $43,861 maximum.

"Chief grade, $31,309 minimum to $40,705 maximum.

"Senior grade, $26,861 minimum to $34,916 maximum.

"Intermediate grade, $22,906 minimum to $29,782 maximum.

"Full grade, $19,386 minimum to $25,200 maximum.

"Associate grade, $16,255 minimum to $21,133 maximum."; and

(4) amending subsection (d) to read as follows:

"(d) Notwithstanding any other provision of law, and except as provided in section 4118 of this title, pay may not be paid at a rate in excess of the rate of basic pay for an appropriate level authorized by section 5314, 5315, or 5316 of title 5 for positions in the Executive Schedule, as follows:

"(1) Level III for the Chief Medical Director;

"(2) Level IV for the Deputy Chief Medical Director; and

"(3) Level V for all other positions for which such basic pay is paid under this section.".

(c) Title 5, United States Code, is amended by—

(1) striking out in section 5314 the following:

"(38) Chief Medical Director in the Department of Medicine and Surgery, Veterans' Administration."; and

(2) striking out in section 5315 the following:

"(31) Deputy Chief Medical Director in the Department of Medicine and Surgery, Veterans' Administration.".

(d) (1) Subchapter I of chapter 73 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 4118. Special pay for physicians and dentists

"(a) (1) Notwithstanding the provisions of section 4107(d) or any other provision of law, in order to recruit and retain highly qualified physicians and dentists in the Department of Medicine and Surgery, the Administrator, pursuant to the provisions of this section and regulations which he shall prescribe hereunder, shall provide, in addition to any pay or allowance to which such physician or dentist is entitled, special pay in an amount not more than (A) $13,500 per annum to any physician employed in the Department of Medicine and Surgery, or (B) $6,750 per annum to any dentist so employed, except as provided in paragraphs (2) and (3) of this subsection, upon the execution, and for the duration of, a written agreement by such physician or dentist to complete a specified number of years of service in the Department.

"(2) Special pay may not be paid under this section to any physician or dentist who—

"(A) is employed on less than a half-time or intermittent basis,

"(B) occupies an internship or residency training position, or

"(C) is a reemployed annuitant.

"(3) The Chief Medical Director, pursuant to such regulations, may determine categories of positions applicable to both physicians and dentists in the Department of Medicine and Surgery as to which there is no significant recruitment and retention problem. Physicians and dentists serving in such positions shall not be eligible for special pay under this section.

"(b) The Administrator shall exercise the authority contained in this section to provide—

"(1) the maximum amount of such special pay to the Chief Medical Director and Deputy Chief Medical Director;

"(2) primary special pay of $5,000 to any eligible full-time physician, or $2,500 to any eligible full-time dentist, appointed under this chapter; and

"(3) a proportional amount of primary special pay of $5,000 to any eligible part-time physician, or of $2,500 to any eligible part-time dentist, appointed under this chapter, which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such physician or dentist bears to full-time employment.

"(c) The Administrator shall, in accordance with such regulations, provide, in addition to the primary special pay provided for in subsection (b) of this section, incentive special pay of no more than $8,500 to any eligible physician, or $4,250 to any eligible dentist, described in clauses (2) and (3) of subsection (b) of this section. In prescribing regulations to carry out this subsection, the Administrator shall take into account only the following factors and may pay no more than the following per annum amounts of incentive special pay to any full-time physician eligible therefor, one-half the following per annum amounts to any full-time dentist eligible therefor (except that the full amount as specified in clause (1)(A)(iii) may be paid), or a proportional amount of the following per annum amounts to any part-time physician or dentist to the extent eligible therefor which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such physician or dentist bears to full-time employment:

"(1)(A)(i) full-time status, $2,000, and

"(ii) tenure of service within the Department of Medicine and Surgery as follows:

"(aa) completion of probationary period or three years, whichever is the lesser, $1,000, or

"(bb) completion of seven years $2,000; and

"(iii) scarcity of medical or dental specialty $2,000; or

"(B) professional responsibility as follows:

"(i) Service Chief not in a scarce medical or dental specialty or Associate Chief of Staff, $5,500,

"(ii) Service Chief in a scarce medical or dental specialty, $7,000,

"(iii) Chief of Staff or Executive Grade, $7,000,

"(iv) Director Grade or Deputy Service Director, $7,250,

"(v) Service Director, $7,500,

"(vi) Deputy Assistant Chief Medical Director, $8,000, or

"(vii) Associate Deputy Chief Medical Director or Assistant Chief Medical Director, $8,500; and

"(2) continuing education certification, $500.

"(d)(1) The annual rate of special pay provided pursuant to this section shall be reduced by an amount calculated as of the effective date of an agreement entered into under this section, as follows: the difference between the annual rate of basic pay for the grade and step of a physician or dentist in effect and payable on the day before the effective date of this section and the annual rate of basic pay in effect and payable on such effective date for such grade and step.

"(2) No part-time physician may be paid an aggregate amount of basic pay, pursuant to the rates applicable on the effective date of this section to physicians employed under this title, and special pay under this section in excess of $42,000 per annum, and no part-time dentist may be paid an aggregate amount of basic pay, pursuant to the rates applicable on the effective date of this section to dentists employed under this title, and special pay under this section in excess of $37,000 per annum.

"(e)(1) Any agreement entered into by a physician or dentist under this section shall be with respect to a period of one year of service in the Department of Medicine and Surgery unless the physician or dentist requests an agreement for a longer period of service not to exceed four years.

"(2)(A) Any such agreement shall provide that the physician or dentist, in the event that such physician or dentist voluntarily, or because of misconduct, fails to complete at least one year of service pursuant to such agreement, shall be required to refund the total amount received under this section, unless the Chief Medical Director, pursuant to the regulations prescribed under this section, determines that such failure is necessitated by circumstances beyond the control of the physician or dentist.

"(B) Any such agreement shall specify the terms under which the Veterans' Administration and the physician or dentist may elect to terminate such agreement.

"(3) Any amount of special pay payable under this section shall be paid in biweekly installments.

"(4)(A) Any physician or dentist who is employed in the Department of Medicine and Surgery on or before the effective date of this section and who enters into an agreement under this section during the forty-five-day period beginning on the date of the enactment of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 is entitled to special pay beginning on the effective date of this section.

"(B) Any physician or dentist who becomes employed in the Department of Medicine and Surgery after the effective date of this section and who enters into an agreement under this section before the close of the forty-five-day period beginning on the date of the enactment of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 is entitled to special pay beginning on the date on which the physician or dentist becomes employed.

"(C) Any physician or dentist who becomes employed in the Department of Medicine and Surgery after the close of the forty-five-day period beginning on the date of the enactment of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, or who does not enter into any agreement under this section before the close of such 45-day period, and who thereafter enters into an agreement under this section is entitled to special pay beginning on the date on which the agreement is entered into or the date on which the physician or dentist becomes employed, whichever date is later.

"(f) Any additional compensation provided as special pay under this section shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55, chapter 81, 83, or 87 of title 5, or other benefits related to basic pay.".

(2) The table of sections at the beginning of chapter 73 of title 38, United States Code, is amended by inserting

"4118. Special pay for physicians and dentists."

immediately after

"4117. Contracts for scarce medical specialist services.".

SEC. 3. The Administrator of Veterans' Affairs shall submit a report each year to the Committees on Veterans' Affairs of the House of Representatives and the Senate regarding the operation of the special pay program authorized by section 4118 of title 38, United States Code, as added by section 2(d)(1) of this Act. The report shall be on a fiscal year basis and shall contain—

(1) a review of the program to date for the fiscal year during which the report is submitted and for such portion of the preceding fiscal year as was not included in the previous annual report; and

(2) any plan in connection with the program for the remainder of such fiscal year and for the succeeding fiscal year.

This report shall be submitted no later than April 30 of each year.

SEC. 4. (a) No later than August 31, 1976, the Comptroller General of the United States and the Director of the Office of Management and Budget shall complete the following activities and shall each submit a report thereon to the Congress:

(1) An investigation of the short-term and long-term problems facing the departments and agencies of the Federal Government (including the uniformed services) in recruiting and retaining qualified physicians and dentists.

(2) An evaluation of the extent to which the implementation of a uniform system of pay, allowances, and benefits for all physicians and dentists employed in such Federal departments and agencies would alleviate or solve such recruitment and retention problems.

(3) An investigation and evaluation of such other solutions to such recruitment and retention problems as each deems appropriate.

(4) On the basis of the investigations and evaluations required to be made under paragraphs (1), (2), and (3) of this subsection, (A) an identification of appropriate alternative suggested courses of legislative or administrative action (including proposed legislation) and cost estimates therefor, which in the judgment of the Comptroller General or Director, as the case may be, will solve such recruitment and retention problems, and (B) a recommendation, and justification therefore, of which such course should be undertaken.

(b) The reports required by subsection (a) of this section shall also include—

(1) a comprehensive analysis of—

(A) the existing laws and regulations relating to the employment of physicians and dentists by such departments and agencies of the Government, including an analysis of the various pay systems established pursuant to such laws,

(B) the existing physician and dentist recruitment, selection, utilization, and promotion practices of such departments and agencies, and

(C) the degree to which the various pay systems referred to in subparagraph (A), the practices referred to in subparagraph (B), and other relevant departmental and agency practices are effective in alleviating or solving such recruitment and retention problems; and

(2) a comparison of the remuneration received by physicians and dentists employed by such departments and agencies with the remuneration received by physicians and dentists in private practice or academic medicine who have equivalent professional or administrative qualifications, based upon information available through medical, dental, and health associations and other available sources.

(c) In preparing their respective reports required by subsection (a) of this section, the Comptroller General and the Director of the Office of Management and Budget shall consult, to the maximum extent feasible, with each other as well as with the Administrator of Veterans' Affairs, the Secretary of Defense, the Secretary of Health, Education, and Welfare, the Chairman of the Civil Service Commission, and the heads of other appropriate Federal departments and agencies.

(d) No later than March 1, 1977, the Comptroller General shall complete, and shall submit a report thereon to the Congress, a comprehensive investigation and analysis of recruitment and retention problems, both nationwide and geographically, of health care personnel other than physicians and dentists in the Department of Medicine and Surgery with respect to basic pay and premium and overtime pay rates.

(e) The report required by subsection (d) of this section shall specify—

(1) pay relationships which exist, both nationwide and geographically, between such personnel and similar employees of non-Federal health care facilities;

(2) pay relationships which exist, both nationwide and geographically, among such personnel in the Department of Medicine and Surgery (including an analysis of the effect of differing pay systems);

(3) the degree to which the pay relationships referred to in clauses (1) and (2) of this subsection create recruitment and retention or other personnel or related problems in the effective administration and achievement of the mission of the Department of Medicine and Surgery;

(4) the degree to which existing title 38 and title 5, United States Code, authorities have been able to be exercised in a way adequate to deal with any such recruitment and retention and pay problems as to such personnel; and

(5)(A) alternative suggested courses of legislative or administrative action (including proposed legislation) and cost estimates therefor, which in the judgment of the Comptroller General will alleviate or solve any such recruitment and retention and pay problems, and (B) a recommendation, and justification therefor, of which such course should be undertaken.

(f) In preparing the report required by subsection (d) of this section, the Comptroller General shall consult with the Chief Medical Director of the Veterans' Administration and with the heads of other appropriate Federal departments and agencies.

(g) The heads of all Federal departments and agencies shall fully cooperate with and respond expeditiously to all reasonable requests for information and assistance in connection with the preparation of the reports required by this section.

(h) The Administrator of Veterans' Affairs shall submit to the appropriate Committees of the House of Representatives and the Senate reports, prepared by the Chief Medical Director, specifying the effect on the administration and achievement of the mission of the Department of Medicine and Surgery of the alternative courses and recommended course of action identified in the reports required by this section. Each such report shall be submitted no later than one hundred and twenty days after the date on which such other report in question is submitted to the Congress.

SEC. 5. Chapter 73 of title 38, United States Code is amended as follows:

(a) Clause (1) of section 4104 is amended to read as follows:

"(1) Physicians, dentists, nurses, physicians' assistants, and expanded-duty dental auxiliaries;".

(b) Section 4105 is amended by—

(1) inserting at the end of subsection (a) the following new paragraph:

"(8) Physicians' assistants and expanded-duty dental auxiliaries shall, have such medical or dental and technical qualifications and experience as the Administrator shall prescribe."; and

(2) striking out in subsection (b) "or nurse unless he" and inserting in lieu thereof "nurse, physicians' assistant, or expanded-duty dental auxiliary unless such person".

(c) Section 4106 is amended by adding at the end thereof the following new subsection:

"(f) The provisions of this section shall apply to physicians' assistants and expanded-duty dental auxiliaries.".

(d) Section 4107 is amended by—

(1) inserting before the period at the end of the third sentence of paragraph (5) of subsection (e) a comma and "except as voluntarily requested in writing by the nurse in question"; and

(2) inserting at the end thereof the following new subsection:

"(f) Under standards which the Administrator shall prescribe in regulations, physicians' assistants and expanded-duty dental auxiliaries shall be compensated by use of Nurse Schedule grade titles and related pay ranges and shall be entitled to additional pay on the same basis as provided for nurses in paragraphs (2) through (8) of subsection (e) of this section.".

(e) Section 4108 is amended by—

(1) striking out in the language preceding clause (1) in subsection (a) "and nurses" and inserting in lieu thereof a comma and "nurses, physicians' assistants, and expanded-duty dental auxiliaries"; and

(2) striking out "or nurse" in the same language in such subsection and in clause (6)(B) thereof and inserting in lieu thereof in each place "nurse, physicians' assistant, or expanded-duty dental auxiliary".

SEC. 6. (a) (1) The amendments made by section 2 of this Act shall become effective on October 12, 1975.

(2) No agreement to provide special pay may be entered into pursuant to section 4118 of title 38, United States Code (as added by section 2(d)(1) of this Act), after October 11, 1976.

(b) Except as provided in subsection (a)(1) of this section, the amendments made by this Act shall become effective beginning the first pay period following thirty days after the date of the enactment of this Act.

Mr. CRANSTON. Mr. President, I have a detailed statement outlining the provisions of the compromise version which we have worked out with the House Committee on Veterans' Affairs on this very important VA Physicians and Dentist Pay Comparability Act of 1975. We reached this agreement after intensive negotiations over the last several months following passage of this legislation in both Houses shortly before the August recess.

Mr. President, this is not a bill which I can totally endorse in every respect, but I can assure the Senate that generally it is a sound and fiscally prudent measure and a generally equitable one. Moreover, in my opinion, it preserves all of the most critical features and principles of the original Senate version, as set forth in S. 1711 as reported from the Veterans' Affairs Committee which comprised the Senate amendment.

I have discussed this compromise version and our proceeding to act on it today with the distinguished chairman of the Committee on Veterans' Affairs (Mr. HARTKE), the ranking minority member of the full committee (Mr. HANSEN), and the ranking minority member of the subcommittee (Mr. THURMOND), all of whom support this version and urge its immediate adoption by the Senate.

Mr. President, today we complete congressional action on the measure in which I first introduced as S. 1711 on May 12, now embodied in a compromise version of H.R. 8240, the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975. This vitally needed legislation will provide the Administrator of Veterans' Affairs with the authority he needs, or point the way to future actions, to stem one of the most serious crisis ever to confront the VA health care system: the accelerating exodus of highly qualified physicians, dentists, and other health care personnel from the VA hospital system because of the inadequacy of salaries available to them in the VA.

BACKGROUND

Mr. President, no factor bears more directly on the quality of patient care provided to veterans in the VA health care system of hospitals, nursing homes and domiciliary facilities than the qualifications and professional skills of the health care personnel in the Department of Medicine and Surgery. For several years, the Department has experienced growing difficulty in obtaining and retaining the services of qualified physicians, and, to a lesser extent, of qualified dentists and nurses. In the spring of 1974, the VA, at the request of the President, conducted a major study of the quality of patient care at hospitals and clinics administered by the Department. That study, prepared under the direction of Dr. John D. Chase, the Department's then newly appointed Chief Medical Director concluded:

> The most critical problem confronting the Department of Medicine and Surgery is the recruitment and retention of an adequate staff of well qualified personnel essential to providing high quality health care. The most urgent of these needs focuses on the physician. Simultaneously, attention must be directed to dentists and nurses.

The single greatest barrier to successful recruitment and retention, the report found, was the inadequacy of the salaries which could be paid to VA physicians and dentists in the Department of Medicine and Surgery. The principal reason for the low level of compensation was the $36,000 ceiling imposed by statute on all Federal executive and white-collar employee salaries—technically called basic pay. That ceiling was first imposed in 1969. Today, 4 out of every 10 full-time physicians and 2 out of every 10 full-time dentists in the Department of Medicine and Surgery have their salaries effectively frozen at that maximum figure. The ceiling, of course, becomes particularly significant in light of the tremendous increase in the cost of living since 1969.

The inevitable result has been an exodus of experienced doctors from the VA Department of Medicine and Surgery, an exodus that now threatens to reach critical proportions. In the 12-month period ending June 30, 1975, more than 300 full-time physicians resigned because they considered their salaries inadequate, and fully two-thirds of the physicians who were recruited to take their places rejected offers of full-time employment, citing the inadequacy of compensation as their reason for doing so. A highly disturbing 21 percent of all physician slots in the Department of Medicine and Surgery are vacant today—representing over 1,200 vacancies—because the Department cannot offer the salaries necessary to attract qualified physicians.

The Department, in other words, is essentially operating at four-fifths strength, at a time when the patient population in the VA hospital system is steadily growing.

The situation with respect to dentists in D.M. & S. seems to be somewhat similar with respect to retention, although not on the same scale as for physicians. The number of dentists who have resigned from the system because of the inadequacy of their salaries has grown during the last 12 months. Although the 18 vacant dentist slots 2 months ago—about 2 percent of the 856 total slots—has increased to more than 50—or more than 6 percent of the total—that still does not seem to constitute significant recruitment problem.

LACK OF COMPARABILITY WITH UNIFORMED SERVICES

Mr. President, the exodus of physicians from the VA accelerated a year ago with the enactment of Public Law 93–274 to assist the uniformed services in recruiting and retaining badly needed medical officers. Under the terms of that 1974 act and its implementing regulations, certain physicians in the Armed Forces and the U.S. Public Health Service who agree to serve 1 to 4 years of additional active duty as medical officers are eligible for special incentive bonuses of up to $13,500 annually for each additional year of service.

With the enactment of this legislation and regulations issued thereunder in September 1974, and by virtue of dentists' special monthly and continuation pay already on the statute books, physicians employed in the VA's Department of Medicine and Surgery no longer had any semblance of salary comparability with their peers in the two other major Federal agencies providing health care.

A comparison of the incomes of VA physicians, uniformed services physicians, and non-Federal physicians—made by the Congressional Research Service on April 21, 1975, and reprinted on pages 31 to 38 of House Report No. 94–339 on H.R. 8240—illustrates the significant recruitment and retention disadvantages of the VA relative to other public-and private-sector health care systems. The $36,000 top salary for VA physicians is substantially lower than the top salary in the other two Federal health services, where the highest paid physicians—although relatively few in number—earn $55,594, 54 percent higher than the maximum physician salary in the VA. Prior to this year's comparability pay increase, the average military physician earned $37,335, whereas the average VA full-time physician in D.M. & S. earned $33,614. It should be noted with regard to these average figures that over 75 percent of the physicians in the Armed Forces have less than 12 years of experience, so that the average figure is misleadingly low. For military physicians, the average salary—prior to this year's comparability pay increase—was $43,039. The average salary for VA physicians with 12 years' experience was less than $36,000. The salaries of non-Federal physicians range considerably higher. In the private sector, the average physician earns more than $50,000, 15.8 percent of physicians net over $71,000 annually, and an income exceeding $100,000 is not at all uncommon.

TREND TOWARD PART-TIME AND FOREIGN MEDICAL GRADUATE PHYSICIANS

Because of the acceleration of full-time physicians and dentists leaving the VA for better-paying jobs elsewhere, the VA has grown increasingly reliant on two sources of physicians to which it has been increasingly reluctant to turn—part-time physicians, and graduates of foreign medical schools. Of the 732 physicians who were recruited to join D.M. & S. in the 3 fiscal years ending with 1975, only 52—7 percent of the total—elected to serve full time. The remaining 680 physicians chose part-time service.

Since 1968, the number of full-time physicians in D.M. & S. has increased by 8 percent. During the same period, the number of physicians serving part time has grown by 209 percent.

Almost 32 percent of all full-time physicians in the VA health care system today were trained in foreign medical schools, as compared to a 20-percent representation of foreign medical graduates in the general physician population of this country. Most significantly, Mr. President, the number of foreign medical graduates in VA health care facilities has increased by 25 percent in the last 2 years alone. While the vast majority of foreign-trained physicians are competent and dedicated individuals, many of them have not received the intensive clinical training that is now a standard part of the curriculum at American medical schools. In addition, lack of fluency in English may create problems in communicating effectively to support staff the exact medication to be administered to the patient and the overall treatment regimen to be followed, and may foster substantial communications barriers with veterans from different linguistic and cultural backgrounds.

Mr. President, we are at the crossroads, and the direction in which we turn could well determine the future of the Department of Medicine and Surgery and of the hospitals and clinics which the Department administers. The survival of the VA health care system as a first-rate provider of hospital, clinic, and extended care treatment is critically dependent on the Department's ability to attract top-quality physicians, dentists, and health care personnel to careers in the VA. If the VA is not empowered to pay the price for well-qualified medical and dental talent, then its hospitals and clinics will be condemned to a second-rate status that is neither befitting for the Federal Government to administer nor equitable to the millions of veterans who depend on the VA for most or all of their hospital and health care needs.

CONGRESSIONAL CONSIDERATION

On May 12, I introduced S. 1711, a bill principally designed to authorize the Administrator of Veterans' Affairs to pay up to $13,500 in special pay to eligible physicians in the Department of Medicine and Surgery. The bill was modeled after section 313 of title 37 as added by Public Law 93–274, and was designed to extend to physicians in the VA annual special pay benefits comparable to those offered to physicians in the uniformed services. Cosponsoring S. 1711 were the distinguished chairman of the Committee on Veterans' Affairs (Mr. HARTKE), the Committee's ranking majority member (Mr. RANDOLPH), the ranking minority members of the committee (Mr. HANSEN) and of the Subcommittee on Health and Hospitals (Mr. THURMOND), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Vermont (Mr. STAFFORD). The Senators from Georgia (Mr. TALMADGE), Florida (Mr. STONE), and Wyoming (Mr. MCGEE) later joined as cosponsors on the bill as reported from the Committee on Veterans' Affairs.

On May 22 and 23, the Subcommittee on Health and Hospitals, which I am privileged to chair on that committee, conducted 2 days of hearings on S. 1711 and related legislation. On July 16, the bill was ordered reported on an 8-to-1 rollcall vote by the Committee on Veterans' Affairs, and I filed the committee report on July 23.

On July 21, the House of Representatives, by an overwhelming 382-to-3 vote, passed H.R. 8240, a bill similar in concept but different in certain important particulars from S. 1711. On August 1, the Senate substituted the text of S. 1711 for the text of the House bill, and then, by a 79-to-6 vote, passed the amended version of H.R. 8240.

For the past 2 months, staff members of the House and Senate Committees on Veterans' Affairs have labored to reconcile the differences between the House-passed and Senate-passed versions of H.R. 8240, and a compromise version has now been agreed to by the two committees. On October 8, the House of Representatives again in approved H.R. 8240, with an amendment, incorporating the agreed-upon compromise text, as a substitute for the Senate amendment—the provisions of S. 1711—to the bill. By approving the compromise text today, the Senate completes congressional action on this important measure, so that it can be sent to the President for his consideration.

RESOLUTION OF MAJOR DIFFERENCES BETWEEN HOUSE AND SENATE VERSIONS

Mr. President, to facilitate an understanding of the compromise version, I ask unanimous consent that a table, showing the major differences between the House bill and the Senate amendment, and the way each is treated in the compromise version before us, be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

MAJOR RESOLVED DIFFERENCES BETWEEN HOUSE AND SENATE VERSIONS OF H.R. 8240/S. 1711: THE "VETERANS' ADMINISTRATION PHYSICIAN AND DENTIST PAY COMPARABILITY ACT OF 1975"

Subject: 1. Salaries for three top officials in DM&S.

HOUSE BILL PROVISION	SENATE SUBSTITUTE AMENDMENT	COMPROMISE VERSION
$56,000 for Chief Medical Director, and $54,000 and $52,000 for other two top officials.	$49,700 for Chief Medical Director, and $48,500 and $47,300 for other two top officials.	Ch. Med. Dir. $54,000 Dep. CMD $52,000 Assoc. DCMD $50,000

MAJOR RESOLVED DIFFERENCES BETWEEN HOUSE AND SENATE VERSIONS OF H.R. 8240/S. 1711: THE "VETERANS' ADMINISTRATION PHYSICIAN AND DENTIST PAY COMPARABILITY ACT OF 1975"—Continued

	Subject: 2. New Physician and Dentist Schedule.	
Struck existing Schedule in § 4107 and replaced it with new Schedule, with salaries as much as 18% higher in some grades.	No provision; kept existing Schedule.	Strikes existing Schedule, substitutes a new Schedule with salaries a uniform 5% higher; codified pending pay comparability increase effective 10/12/75 for DM & S.
	Subject: 3. Fixed portion of special pay.	
(a) Called it "special pay"; (b) Set it at $5,000 for full-time physicians; (c) Made its award discretionary.	(a) Called it "base special pay"; (b) Set it at $6,075 for full-time physicians; (c) Mandated its payment subject to categorical exceptions (see item 8).	(a) Called "primary special pay"; (b) Sets it at $5,000 for full-time physicians; (c) Mandates its payment subject to categorical exceptions (see item 8).
	Subject: 4. Variable portion of special pay.	
(a) Called "incentive pay"; (b) Paid according to dollar amounts and standards specified by statute.	(a) Called "additional special pay"; (b) Dollar amounts and standards left to the Administrator through regulations subject to five specified criteria, except with respect to the full-time-service criterion (see item 5(c)).	(a) Called "incentive special pay"; (b) Revised dollar amounts and standards specified by statute.
	Subject: 5. Part-time service.	
(a) Included only half-time-or-more service; (b) Set a total compensation ceiling (basic pay plus special pay) of $41,000 for part-time physicians and $36,000 for part-time dentists; (c) Gave $1,000 in "incentive pay" for full-time service.	(a) Included all part-time service; (b) Set no total compensation ceiling; (c) Gave $2,025 in "additional special pay" for full-time service.	(a) Includes only half-time-or-more service; (b) Sets a total compensation ceiling of $42,000 for a part-time physician and $37,000 for a part-time dentist; (c) Gives $2,000 in "incentive special pay" for full-time service.
	Subject: 6. Inclusion of dentists.	
Made dentists eligible for special pay, but at a 50% rate.	Limited special pay to physicians; dentists not eligible.	Makes dentists eligible for special pay, at a 50% rate, generally.
	Subject: 7. Special pay effective date.	
September 28, 1975.	July 1, 1975.	October 12, 1975.
	Subject: 8. Categorical exceptions.	
(a) Because all special pay was discretionary, any physcian or dentist could be excluded by decision of the Administrator. (b) Physician and dentist hospital directors excludable.	(a) Permitted the exclusion of categories of physicians, after specific finding by Chief Medical Director; (b) Physician hospital directors not excludable.	(a) Permits the exclusion of categories equally applicable to physicians and dentists; (b) Permits the exclusion of physician and dentist hospital directors; (c) Excludes by law interns, residents, and certain other specified categories.
	Subject: 9. Multi-year agreements.	
Limited to one year of special pay eligibility.	Gave to each physician the option of signing agreements for up to four years of DM & S service and special pay eligibility.	Gives to each physician and dentist the option of signing agreements for up to four years of DM & S service and special pay eligibility.
	Subject: 10. Refund provision	
No provision.	Required any physician who failed to complete one year of service to refund all special pay received.	Requires any physician or dentist who fails to complete one year of service to refund all special pay received.
	Subject: 11. Effect of the October pay raise	
Provided for reduction of special pay amount by the amount of basic pay increase due to the new Physician and Dentist Schedule (see item 2).	No applicable provision.	Subtracts the 5% cost-of-living pay raise from special pay, so that physicians and dentists receive special pay over and above increased basic pay rate.
	Subject: 12. Independent review and report on Government-wide physician and dentist pay systems and recruitment and retention.	
(a) Report prepared by Comptroller General; (b) Covered dentists and physicians only; (c) Due date August 31, 1976.	(a) Report prepared by Office of Management and Budget; (b) Covered all health care personnel; (c) Due date March 1, 1976.	(a) Two separate reports prepared by Comptroller General and one by Director of Office of Management and Budget; (b) Two reports on physician and dentist recruitment and retention, one by OMB and one by the Comptroller General; and one on other health care personnel by the Comptroller General; (c) Physician and dentist reports due August 31, 1976; other health care personnel report due March 1, 1977.
	Subject: 13. Non-physician provisions.	
None (except dentists).	Provisions: (a) Placed physicians' assistants and expanded-duty dental auxiliaries under title 38; (b) Permitted registered nurses voluntary compensatory time off; (c) Provided for title 38 premium and overtime pay for other direct patient care nontitle—38 health care personnel; (d) Permitted nationwide entry-grade adjustment by VA for nontitle—38 health care personnel to meet competitive pay practices or provide internal pay alignment within VA.	Provisions: (a) Places physicians' assistants and expanded-duty dental auxiliaries under title 38; (b) Permits registered nurses voluntary nurses voluntary compensatory time off; (c) and (d) See item 12(b) in this column for Comptroller General study covering these, among other, subjects.

Mr. CRANSTON. Mr. President, the compromise version of this legislation which we bring to the Senate today is certainly not a perfect measure. Compromises seldom are. But, as I indicated, Mr. President, I do believe that, by and large, it retains the essential features and principles of the Senate amendment, which was S. 1711 as reported from the Committee.

CRITICAL FEATURES OF SENATE AMENDMENT RETAINED

Mr. President, I would like to outline briefly those critical features and principles.

First, Mr. President, we have maintained the Senate amendment structure, and the underlying, principle which provides a major measure of comparability for VA doctors with medical officers—and now dental officers—in the Armed Forces and Public Health Service. This is accomplished both through the Congressional findings in section 2(a) of the compromise version, which explicitly recognize the need for providing comparability with the uniformed services and the lack of comparability which was brought about by the enactment of Public Law 93–274, and through the structure of the special pay program based on the provision of special pay in return for agreements executed by VA physicians and dentists to serve specified periods of time up to the 4 years permitted pursuant to the Public Law 93–274 special pay program as implemented pursuant to applicable regulations. This is by far the single most imporant provision and principle regarding special pay in the bill. It provides the Department of Medicine and Surgery a real recruitment and retention tool by permitting any physician or dentist to obtain an entitlement to up to 4 years of special pay by entering into a 4-year agreement, rather than run the risk, as will any physician or dentist who signs an agreement for only 1 year of service, that the provisions of this act as to entering into new agreements, which expire on October 11, 1976, will not be further extended.

Let me hasten to add, Mr. President, that it would certainly be my very strong intention, and I would believe the intention of our committee, to seek to extend the special pay program for at least another year if an overall Federal pay comparability solution is not achieved by next October. But certainly that is not a guaranteed result, and I understand that there may be some questions about further extension in the other body.

Second, Mr. President, we have maintained the Senate amendment provision, and the underlying principle, that no individual physician—or dentist now under the compromise version—should be excluded from special pay because of a judgment made about inadequacy of such doctor's professional qualifications or performance. As part of this point, we have, therefore, been able to secure House agreement to a system whereby all D.M. & S. doctors will receive special pay as an entitlement unless the Chief Medical Director decides to exercise his discretionary authority to exclude categories, equally applicable to both physicians and dentists, of positions from special pay eligibility because as to such positions there is no significant recruitment and retention problem. Thus, in the absence of any action by the Chief Medical Director, all such physicians and dentists will receive special pay as a matter of entitlement. We believe strongly that this is how a program, designed after all to achieve pay comparability—that is, to pay physicians and dentists what they are in fact worth in the health care market—should work.

Third, Mr. President, by the adoption of two of the four Senate amendment provisions relating to other than physicians—including under the title 38 pay and personnel system physicians' assistants and expanded-duty dental auxiliaries, and permitting voluntary compensatory time off for registered nurses, physicians' assistants, and expanded-duty dental auxiliaries—and by adoption of a broad Government-wide study of the pay comparability and recruitment and retention problems with respect to all health care personnel—not limiting such study to only physicians and dentists—we have, I think, been faithful to our goal of making clear that we are under no illusion that the quality of health care provided by the VA is determined either solely, or even to the principal extent, by just physicians and dentists.

We feel very strongly that the nurses, optometrists, pharmacists, licensed vocational or practical nurses, nursing assistants, laboratory, X-ray technicians, and medical technologists and technicians, occupational and physical therapists, and, indeed, all VA health care personnel play an absolutely critical and indispensible role in providing for a well-functioning, compassionate, and effective hospital and medical system. We, therefore, tried in the Senate bill to take into consideration, and attempt to deal with, some of the significant pay comparability and recruitment and retention problems which were being experienced by these other health care professional and paraprofessional personnel. Although we did not, even in committee, achieve all of our goals in this regard, I firmly believe that we have, by the provisions I have just outlined, made progress toward this goal.

Mr. President, fourth, we have been able to provide a major financial incentive toward full-time service by adoption of the $2,000 Senate bonus for full-time service by physicians—$1,000 for full-time dentists.

Finally, Mr. President, we have been able—through the modifications we have made in the House bill specification of the incentive special pay factors, which constitutes the variable portion of special pay—to provide sufficient latitude to the Chief Medical Director to administer the special pay program in terms of incremental amounts in the manner he had proposed in his testimony before our subcommittee. We feel that the specification of detailed factors in the compromise version is unnecessary and unwise, but the House insisted on this specificity, and was very reasonable and accommodating in working out modifications in the factors so as to meet the concerns I have just expressed.

SENATE CONCESSIONS TO HOUSE POSITIONS

At the same time, Mr. President, I would be less than candid at this point if I did not also point out that there are five specific aspects to the compromise version—three by inclusion and two by exclusion—which I believe are regrettable.

First, Mr. President, we were unable to convince the House to retain the Senate amendment provision specifically mandating special pay for physician hospital directors. I note, parenthetically, Mr. President, that we felt the same way about dentist hospital directors once it was agreed to include them in the compromise version. Later in this statement I explain some of the reasons we thought it was important to require special pay for these doctor directors.

Second, Mr. President, I think it is most unfortunate that this bill excludes from eligibility for special pay physicians and dentists employed on less than a half-time basis. The bill submitted by the administration made no such exclusion within the part-time category, and the Chief Medical Director made a strong case regarding the need for their inclusion. There are certainly many VA hospitals, a number of them in more rural, isolated areas, where less than half-time service is the only practical method of insuring that the services of vitally needed specialists will be available on a regular basis or, in many instances, to secure only an amount of service which is actually needed to provide certain specialist care given demands in a particular hospital. The effect of this provision may very well be, in any event, Mr. President, to bring about an upward conversion of many of these less than half-time doctors presently on the rolls to a half-time or more basis.

Third, Mr. President, as to dentists, I would have preferred to leave to the Chief Medical Director the decision as to whether or not there is a significant dentist recruitment and retention problem justifying the payment of special pay to them.

Alternatively, I would have preferred that the compromise version include dentists in the special pay provisions but also have permitted the Chief Medical Director to exercise his discretionary authority under subsection (a)(3) of new section 4118, to exclude categories of positions, so to exclude the whole category of dentists or certain categories within the category of dentists if he determined there was no significant recruitment and retention problem as to them However, the House insisted on mandating the provision of special pay to dentists and specifically permitting the exclusion of categories only where they were equally applicable to both physicians and dentists. I find that this creates a substantial inequity, which I will comment on later, Mr. President, by permitting the exclusion of any category of physicians at the discretion of the Chief Medical Director—either hospital direc-

tors or researchers for example—when virtually all dentists are, in effect, being mandated for payment of special pay.

Finally, Mr. President, with respect to the less desirable aspects of the compromise version, I regret that we were unable to convince the House to include two provisions from section 4 of the Senate amendment, namely the provision to provide for title 38 premium and overtime pay for direct-patient-care non-title-38 health care personnel—now only registered nurses receive premium and overtime pay under the terms and conditions set forth in title 38—and the provision permitting nationwide adjustment of entry grades by the Administrator for non-title-38 health care personnel to meet competitive pay practices or provide internal pay alinement within the VA. The need for these two provisions was fully spelled out in my August 1, 1975, floor statement upon initial Senate passage of this bill, and on page 25 through 29 of the Senate Committee Report—No. 94–325.

Mitigating against this unfortunate exclusion, however, Mr. President, is the special GAO study, which the House has agreed to in section 4 (d) and (e) of the compromise version, covering the pay comparability and recruitment and retention problems of all health care personnel and specifically focusing on the specific purposes sought to be achieved by the two provisions I have just outlined which are not included in the compromise version—namely, premium and overtime pay comparability for all D.M. & S. health care personnel and nationwide and geographic salary adjustment.

SUMMARY AND DISCUSSION OF PROVISIONS OF COMPROMISE VERSION

SUMMARY OF PROVISIONS

Mr. President, the compromise version of H.R. 8240 would:

First. Mandate the payment of special pay to eligible physicians and dentists in the Department of Medicine and Surgery as follows:

One. Full-time physicians, with the exception of those in certain narrowly drawn categories of positions equally applicable to both physicians and dentists found by the Chief Medical Director not to be experiencing a significant recruitment and retention problem, would receive $5,000 in "primary special pay," plus up to $8,500 in variable "incentive special pay."

Two. Full-time dentists—with the exception of those in certain narrowly drawn categories equally applicable to both physicians and dentists would receive $2,500 in "primary special pay," plus up to $4,250 in "incentive special pay."

Three. Part-time physicians and dentists employed on a half-time basis or more in the Department, with the same narrowly drawn categorical exceptions, would receive "base special pay" plus "additional special pay" proratably reduced by the proportion of time employed in VA facilities.

Second. Remove the salary authorization for the Chief Medical Director and Deputy Chief Medical Director from title 5 of the United States Code; establish statutory salaries for these officials in section 4107 of title 38 of the United States Code; impose salary ceilings on their salaries, as well as that of the Associate Deputy Chief Medical Director, to correspond to specific executive schedule levels in title 5—while retaining the governmentwide salary ceiling on all other D.M. & S. salaries—except as provided in special pay—and direct the provision of $13,500 in special pay to these three officials.

Third. Revise the "Physician and Dentist Schedule" in section 4107 of title 38 to codify the 5-percent comparability pay increase to Public Law 94–82 and Executive Order No. 11883, effective October 12, 1975, as to D.M. & S. personnel.

Fourth. Require the Administrator of Veterans' Affairs to report annually to the relevant committees of Congress on the operation of the special pay program.

Fifth. Require the Director of the Office of Management and Budget and the Comptroller General, after consultation with the Administrator of Veterans' Affairs and the heads of relevant Federal agencies, to submit to the appropriate committees of Congress, not later than August 31, 1976, separate and independent reports proposing a permanent and coordinated legislative solution to the problem of attracting and retaining the services of qualified physicians and dentists for careers in the VA, the uniformed services, and other Federal agencies providing health care; require the Comptroller General to prepare a report on the Federal Government's recruitment and retention and pay comparability problems with respect to health care personnel other than physicians and dentists, due March 1, 1977; and require the Chief Medical Director to comment upon the OMB and GAO reports within 120 days of the receipt of those reports by the Congress.

Sixth. Provide for the inclusion in the title 38 Department of Medicine and Surgery personnel system of physicians' assistants and expanded-duty dental auxiliaries, along with physicians, dentists, and registered nurses, and direct that they be paid under the nurse schedule in section 4107 of title 38.

Seventh. Remove the prohibition on compensatory time off for VA registered nurses, but only when a nurse who, because of certain overtime work, is entitled to special compensation voluntarily and specifically requests in writing that that compensation take the form of extra time off rather than overtime pay.

Mr. President, let me now explain in detail the changes, provision by provision, that have been made in the legislation as originally passed by each house.

BASIC PAY

Basic pay for the three top officials in the Department of Medicine and Surgery: Mr. President, Department of Medicine and Surgery's three highest officials are currently paid their basic pay under or by reference to the executive schedule in title 5 of the United States Code as follows: $40,000 for the Chief Medical Director, under executive level III; $38,000 for the Deputy Chief Medical Director, under executive level IV, and $36,000 for the Associate Deputy Chief Medical Director, by reference to executive level V.

Both Houses of Congress recognized, Mr. President, that the basic pay rates for these three officials were more appropriately authorized under title 38 rather than title 5, and the measure as passed by each House contained a provision transferring basic pay authorization to title 38. All of the nontitle 38 positions in the title 5 executive schedule level III are filed by Presidential appointment by and with the advice and consent of the Senate, and the same is true of virtually all positions at executive levels IV and V. In contrast, the top three officials in the Department of Medicine and Surgery are nonpartisan officials appointed for 4-year statutory terms of service by the Administrator of Veterans' Affairs.

It is more appropriate, therefore, to include these officials in the title 38 pay system. Accordingly, section 2(b) of the compromise version transfers compensation authority for these officials to title 38, and section 2(c) makes the necessary conforming changes in title 5 to eliminate any reference to the officials presently listed there.

Having moved the specification of the basic pay levels of the top officials of the Department to the title 38 pay system, it was of course necessary to establish rates of basic pay for them in line with the existing rates provided for in the title 38 pay system. In the original House version of H.R. 8240, basic pay rates of $56,000, $54,000, and $52,000 were authorized for the Chief, Deputy Chief, and Associate Deputy Chief Medical Directors, respectively. In the Senate substitute, rates of $49,700, $48,500, and $47,300, respectively, were authorized. Those latter figures were derived as follows: The executive schedule level III, rate proposed by the President on February 4, 1974, as part of a 3-year adjustment plan for executive schedule rates was applied to the Chief Medical Director. The other two rates were set $1,200 and $2,400 lower, respectively.

We recognized that the latter two statutory rates would be slightly higher than the executive schedule IV and V levels proposed by the President in his February 1974, plan; but we selected those rate levels in order to bring the basic pay rate of the Associate Deputy Chief Medical Director to a level higher than that now set forth for Assistant Chief Medical Directors—$46,336—in the "Section 4103 Schedule" under section 4107(b) of title 38.

As of October 12, 1975, under Executive Order No. 11883, signed October 6, 1975, which raises rates of pay for Federal executive-level employees by 5 percent, the rate of basic pay specified under title 38 for the Assistant Chief Medical Director will increase $2,318, from $46,366 to $48,684. To keep the basic pay rates of the three top officials in line with this new figure, their rates were set at levels incrementally higher, yielding the authorized basic pay rates contained in the compromise version: $54,000 for the Chief Medical Director, $52,000 for the Deputy Chief Medical Director, and $50,000 for the Associate Deputy Chief Medical Director. The new authorized rates preserve internal pay alinement at the

top of the Department, and are midway between the rates contained in the original House bill and the Senate amendment.

These figures, of course, are only the levels of basic pay authorized by statute. They are not the rates which will actually be paid to the three top officials of the Department. All of the salaries currently in the title 38 pay system, to the extent that they exceed the salary ceiling of $36,000, or $37,800 as of October 12, 1975, are limited by section 4107(d) of title 38, which applies to title 38 positions the Governmentwide ceiling set forth in section 5308 of title 5. The effect of moving the salary authorization of the Chief Medical Director and Deputy Chief Medical Director from title 5 to title 38, then, would thus have been to reduce their basic rates of pay by $4,000 and $2,000, respectively, under the pre-October rates—or, after the October 12 comparability increase, by $4,200 and $2,100, respectively.

To avoid this result, section 2(b)(3) of the compromise version sets special ceilings on the basic pay rate for the top two officials in the Department by reference to their current Executive Schedule levels. The Chief Medical Director's basic pay ceiling will thus remain the amount payable under level III of the executive schedule—$42,000 as of October 12—and the Deputy Chief Medical Director's ceiling will continue at the amount payable under level IV of the executive schedule—$39,900 as of October 12. Thus, the transfer of their basic pay rate authorizations to title 38 does not in any way reduce the present or future basic pay levels payable to the top officials in the Department.

For all other personnel paid under the title 38 system—including the Associate Deputy Chief Medical Director—the basic pay limitation prescribed by section 5308 of title 5 is continued in effect by the compromise version as to title 38 positions at the existing level—$36,000, now and $37,800 after October 12.

New physician and dentist schedule: Mr. President, all physicians and dentists in the Department are paid according to the "physician and dentist schedule" in section 4107 of title 38. The existing schedule was last amended by statute on August 2, 1973, and has been increased twice since then by Executive order in October 1973, and October 1974, pursuant to the pay comparability system established in subchapter I of chapter 53 of title 5, United States Code.

The House bill proposed a new physician and dentist schedule, with entry grade salaries ranging from 5.4 percent to 18.3 percent higher than those in the existing schedule. The Senate amendment proposed no new schedule.

A complicating factor was the pending comparability pay increase finally authorized at 5 percent by Executive Order No. 11883, effective October 12, 1975, as to D.M. & S. employees. Section 5305(n) "Annual pay reports and adjustments" of title 5, United States Code, provides:

The rates of pay that take effect [pursuant to annual adjustment by Executive Order] shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

(1) all provisions of law enacted prior to the effective dates of all or part (as the case may be) of the increases; and

(2) any prior recommendations or adjustments which took effect under this section or prior provisions of law.

Mr. President, we have been advised by the Chairman of the Civil Service Commission that this title 5 provision means that any adjustment in the title 38 pay system, "to the extent inconsistent"—higher or lower—with the October 6 Executive order, would be superseded and rendered inapplicable by that Executive order. If we had waited until after the effective date of that order—October 12, 1975, in the case of D.M. & S.—to amend the physician and dentist schedule in title 38 with rates other than those provided for in the new order, then such a new statutory schedule would have been effective, but only until next October, when the 1976 Executive order would have superseded it.

Mr. President, I ask unanimous consent that a copy of the Civil Service Commission's letter of September 15, 1975, be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., September 15, 1975.

Hon. ALAN CRANSTON,
Chairman, Subcommittee on Health and Hospitals, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the opinion of the Civil Service Commission on the relationship between the Federal pay comparability system and certain rates of pay that would be established by section 2(a) of H.R. 8240, as passed by the House of Representatives on July 21, 1975.

Under section 5305 of title 5, United States Code, the President is required (unless he invokes a special alternative procedure under subsection (c) of section 5305) to adjust the rates of pay of certain statutory pay systems each year in accordance with principles specified in section 5301(a) of title 5. These principles are that—

"(1) there be equal pay for substantially equal work;

"(2) pay distinctions be maintained in keeping with work and performance distinctions;

"(3) Federal pay rates be comparable with private enterprise pay rates for the same levels of work; and

"(4) pay levels for the statutory pay systems be interrelated."

Under subsection (c) of section 5301, the statutory pay systems involved are identified as the General Schedule system, the Foreign Service pay system, and the system established for certain employees in the Department of Medicine and Surgery of the Veterans' Administration under chapter 73 of title 38, United States Code.

When the President adjusts the pay rates of these statutory pay systems, subsection (n) of section 5305 provides that—

"The rates of pay that take effect under this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

"(1) all provisions of law enacted prior to the effective date or dates of all or part (as the case may be) of the increases; and

"(2) any prior recommendations or adjustments which took effect under this section or prior provisions of law."

These provisions of law were enacted in January 1971 by the Federal Pay Comparability Act of 1970, Public Law 91–656, and have served as the basis for adjustments in the pay rates of the affected statutory pay systems since then. The most recent adjustment was made by the President in Executive Order 11811, October 7, 1974, and the rates established by that order are currently in effect.

Section 2(a) of the House version of H.R. 8240 would, among other things, establish new rates of pay for certain positions under the statutory pay system under chapter 73 of title 38. These new rates of pay would be higher than those that were established for these positions by section 2 of Executive Order 11811. We have been asked for our opinion as to the relationship between these proposed pay rates and the title 5 pay comparability system.

It is our view that the amendments to title 38 that would be made by the House version of H.R. 8240 would not supersede or invalidate any provision of the title 5 pay comparability system, although the rates of pay in H.R. 8240 would supersede rates of pay that are in effect at the time of enactment of H.R. 8240.

As required by section 5301 of title 5, the pay rates of the title 38 statutory pay system are presently interrelated with the rates of pay of the General Schedule and the Foreign Service pay system in such a way as to provide equal pay for equal work under all three statutory pay systems. To be sure, Congress certainly has authority to modify rates of pay on its own initiative, which is precisely what would be done by section 2 of H.R. 8240. However, H.R. 8240 is obviously being considered against a background of knowledge about the existing pay comparability mechanisms, and the absence of any provision expressly vitiating the applicability of those procedures to the pertinent portions of the title 38 statutory pay system suggests that H.R. 8240 is not designed to disturb the general comparability structure. And, in this regard, since the President is required to make pay adjustments in accordance with section 5301, it would appear that the President could restore the present pay relationships between the General Schedule and the title 38 system at the time of the first comparability adjustment following the enactment of H.R. 8240.

Thus, if H.R. 8240 were to be enacted before October 12, 1975 (the effective date of the pay comparability adjustment for employees under the title 38 statutory pay system), the pay rates in the bill would supersede the pay rates established by Executive Order 11811, and would take effect. However, on October 12, the pay rates in H.R. 8240 could in turn be superseded by the new Executive order, in accordance with the provisions of section 5305(n).

For example, H.R. 8240 would establish a range of pay rates of $39,000 to $48,000 for Director-grade physicians and dentists. However, the October 1975 pay comparability adjustment is expected to result in a pay range of only $36,338 to $46,026 for the Director grade. (These figures assume that neither House of Congress will disapprove the President's plan for a five percent General Schedule pay increase in October 1975. If either House does disapprove the President's plan, an 8.66 percent General Schedule adjustment would result, and the rate range for the Director grade would be $37,604 to $47,628.) Since section 4107(d) of title 38 and section 5308 of title 5 limit actual pay rates for the title 38 statutory pay system to the rate for level V of the Executive Schedule, the employees in this grade would not have their actual rates of pay reduced, but the rates of pay shown in the pay schedule would be changed from those in H.R. 8240 to those resulting from the com-

parability adjustment. Physicians and dentists at lower grades, with rates below the level V limitation, would have their actual pay rates reduced.

We, of course, do not contend that the matter is entirely free from doubt, especially since it is conceivable that under this view the rates of pay established by H.R. 8240 would subsist merely for a few weeks and it is generally presumed that "the legislature would [not] do a futile thing." 2A SUTHERLAND, STATUTES AND STATUTORY CONSTRUCTION (4th ed. 1973). Nonetheless, the absence of any express treatment of the matter in the bill (e.g., by inclusion of the words "notwithstanding other provisions of law," or other words to similar effect) makes it not unreasonable to assume that the positions identified in section 2 would continue to be subject to the President's pay comparability determinations.

In any event, if H.R. 8240 were to be enacted on or after October 12, 1975, the pay rates in the bill would supersede the pay rates established by the President in the October 1975 pay comparability adjustment, but could conceivably remain in effect only until the time of the next pay comparability adjustment, scheduled for October 1976. At that time, the rates established by the President could, for the reasons suggested above, supersede the rates established by H.R. 8240.

I hope this opinion will be of assistance to your committee in your consideration of H.R. 8240. Please contact us if we may be of any further assistance.

Sincerely yours,

ROBERT HAMPTON,
Chairman.

Mr. CRANSTON. Mr. President, the solution, it seemed to us, was to amend the Physician and Dentist Schedule in a way consistent, not inconsistent, with the pending Executive Order. This we did by incorporating the 5-percent comparability increased rates into the title 38 Schedule, with rates, for every salary level, 5 percent higher than those in the existing Schedule. This codification of the 5-percent comparability pay raise will avoid the problems posed by section 5305(n) of title 5. Also, Mr. President, I want to make clear that all physicians and dentists in the Department of Medicine and Surgery will receive the 5-percent raise, whether or not they qualify for or elect to sign agreements for special pay.

SPECIAL PAY

FIXED PORTION OF SPECIAL PAY

Mr. President, a major difference between the House version of H.R. 8240 and the Senate amendment concerned two aspects of the fixed portion of special pay—the amount, and whether payment was totally discretionary or was mandated subject to exclusions of categories of positions for which it was determined there was no significant recruitment and retention problem. The House bill called the fixed amount "special pay" and the Senate called it "base special pay." The compromise version has adopted the term "primary special pay," and I will use that term to avoid confusion.

With respect to the amount of primary special pay, Mr. President, in the House bill physicians were eligible for $5,000 in primary special pay. Under the Senate amendment, physicians were entitled to $6,075 in primary special pay. The compromise version adopts the House's $5,000 figure. The House committee was adamant on this point. This does not mean, however, Mr. President, that D.M. & S. physicians on the average will necessarily receive less in total special pay under the compromise version than under the Senate amendment. The average full-time physician—who has service beyond 7 years in the Department—will still receive between $9,000 and $10,000 in special pay—minus a reduction factor, which I will explain later. This is about the same sum that the average D.M. & S. physician would have received under the Senate amendment, the difference in primary special pay being made up by a larger amount of incentive special pay—that portion originally called additional special pay in the Senate amendment and incentive pay in the House bill and which is the variable portion of the total amount of special pay.

Second, Mr. President, under the original House bill, the award of primary special pay was entirely discretionary. The Administrator could authorize a a physician to receive none, some, or all of the primary special pay for which he was eligible. In a memorandum submitted to the Committees on Veterans' Affairs pursuant to the May 29, 1975, transmittal letter of draft legislation from the Administrator of Veterans' Affairs, the Department of Medicine and Surgery indicated that it would use the discretionary authority thus granted to the VA to exclude certain categories of physicians and, on an individual basis, "a few physicians whose competence and productivity are borderline." The House committee report specifically pointed out and called for this case-by-case approach, as distinguished from a categorical approach, in its explanation of the House bill—House Report No. 94–339—page 10 .

Mr. President, I very strongly objected to the notion that primary special pay could be used as a personnel tool to prod physicians of "borderline" productivity into retirement. I believed, and still believe, that such physicians, if they can be identified in the Department, should be separated or retired immediately or otherwise dealt with in accordance with prescribed personnel standards and procedures, and that special pay should not be a coercive mechanism to punish or hasten the departure of "borderline" physicians.

In any event, Mr. President, I was and am convinced that any denial of special pay to an individual physician, because of his job performance would be an adverse personnel action requiring all requisites of notice and hearing and other due process procedures and protections under the Constitution and applicable law and regulation. In sum, the "game" would not be "worth the candle."

Accordingly, Mr. President, the Senate amendment was drafted so as to mandate the award of primary special pay to all categories of physicians deemed eligible to receive it. As I will discuss more fully later, the Chief Medical Director could make categorical exceptions upon a finding that, as to categories of physicians in the Department, there was no significant recruitment and retention problem. But I emphasize, Mr. President, that the Senate amendment did not permit the Chief Medical Director to single out an individual physician for reasons of dubious productivity or any other reason, and thus deny that physician special pay. Exceptions, if they were to be made, had to be made by category.

Mr. President, I am pleased to say that the provisions relating to mandated primary special pay, subject only to categorical exceptions, were retained in the compromise version. It is very important, I believe, to the concept of a special pay program that special pay be considered an entitlement rather than a privilege by both the recipients and the Administrator. Mandating the payment of primary special pay—indeed "incentive" special pay as well in the compromise version—sets a tone for the special pay program that is critical to the success of the program and continued good morale in the Department.

VARIABLE PORTION OF SPECIAL PAY

This portion of the total amount was originally referred to as "incentive pay" in the House version, and "additional special pay" in the Senate amendment. It is called "incentive special pay" in the compromise version, and again, Mr. President, I will use the term from the compromise version to avoid confusion.

The House and Senate committees agreed that the amount of incentive special pay should be fixed according to objective factors, but we disagreed on the most effective way of achieving that result. The original House bill contained specific statutory factors, and dollar amounts payable for each, governing the amount of incentive special pay for which a particular physician or dentist was eligible. The Senate amendment, instead of legislating specific dollar increments, specified five objective criteria and left to the Administrator and Chief Medical Director the task of drafting regulations to implement them.

The compromise version essentially adopts the House approach, by including in the statute specific factors and dollar increments of incentive special pay for each. The statutory language, however, has been significantly revised to: First, change one of the five specified objective factors; second, establish two forms of incentive special pay schemes: One for physicians and dentists holding specified administrative positions in Washington or in the field and one for all others; and third, revise and perfect each of the incremental amounts provided for the factors adopted. The result, Mr. President, is a plan for determining incentive special pay eligibility that is flexible and more attuned to the particular needs of the Department of Medicine and Surgery.

Under the compromise version of H.R. 8240, incentive special pay is to be awarded only on the basis of specifically enumerated factors. Mr. President, I ask unanimous consent that a table be printed in the RECORD, showing the per annum dollar amounts of incentive special pay for a full-time physician under the compromise version with the corresponding

amounts for a full-time dentist in parentheses.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Incentive special pay under H.R. 8240 compromise version

For physicians and dentists not holding prescribed professional positions:		
Full-time status	$2,000	($1,000)
Tenure of service within the Department, as follows:		
Completion of probationary period of 3 years, whichever is the lesser	1,000	(500)
Completion of 7 years	2,000	(1,000)
Scarcity of medical or dental specialty	2,000	(2,000)
Continuing education certification	500	(250)
For physicians and dentists holding professional positions as follows:		
Service Chief not in a scarce medical or dental specialty, or Associate Chief of Staff	$5,500	($2,750)
Service Chief in a scarce medical or dental specialty	7,000	(3,500)
Chief of Staff, or Executive Grade	7,000	(3,500)
Director Grade, or Deputy Service Director	7,250	(3,625)
Service Director	7,500	(3,750)
Deputy Assistant Chief Medical Director	8,000	(4,000)
Associate Deputy Chief Medical Director, or Assistant Chief Medical Director	8,500	(4,250)

Mr. CRANSTON. Mr. President, in order to provide a significant financial incentive to assist the Department in recruiting and retaining the services of certain dental specialists, such as oral surgeons, periodontists, endodontists, and orthodontists, the statutory specifications provide that up to $2,000 in incentive special pay may be paid to a dentist for "scarcity of dental specialty." This sum equals the commensurate sum payable to physicians in scarce specialties instead of the standard 50-percent reduction as all other factors delineated in the statute are applied to dentists.

Mr. President, another notable feature of this table is the incentive special pay for "continuing education certification," a factor that was not included in earlier versions of the bill and is new to the compromise version. Physicians and dentists who are eligible for special pay and who have received "continuing education certification" are entitled to receive an additional amount of incentive special pay—$500 in the case of an eligible full-time physician, $250 in the case of an eligible full-time dentist, and proportionately reduced amounts in the case of an eligible part-time physician or dentist who serves on a half-time or more basis in the VA.

The committees intend that a physician's eligibility for the $500 of incentive special pay for "continuing education certification" be determined based on receipt of the "Physician's Recognition Award" from the Council on Medical Education of the American Medical Association. To qualify for this award, a physician must participate in 150 credit hours of advanced medical instruction in accordance with rules prescribed by the AMA, at least 60 credit hours of which must be taken at institutions with continuing education programs accredited by the AMA. As of October 1, only 50 of 171 VA hospitals had accredited programs in continuing medical education. The committees intend that the Department of Medicine and Surgery, in conjunction with the AMA, will make every effort to hasten the accreditation, for continuing education program purposes, of all VA hospital programs, and to require, wherever feasible, that all instructional credit hours will thus be taken at AMA-accredited institutions.

There is no equivalent in dentistry to the "Physician's Recognition Award" in medicine. Although the "Principles of Ethics" of the American Dental Association affirm the dentist's responsibility to continue his dental education for the duration of his professional career, the ADA does not administer a formal certification program for dentists who have completed a course of continuing dental education. Since 1972, however, the ADA administered a "Continuing Education Registry" program designed to assist State dental examining boards and professional societies in implementing continuing education regulations and programs, and has developed a well-respected capability in this field. It is the committees' expectation that the Chief Medical Director, in consultation with the relevant officials at the ADA's Council on Dental Education and the Assistant Chief Medical Director for Dentistry, will expeditiously develop a program of continuing dental education similar in scope, degree, and quality to the AMA's "Physician's Recognition Award" program for physicians, the completion of which will entitle eligible dentists in the Department of Medicine and Surgery to the $250 of incentive special pay for "continuing education certification" provided for in subsection (c)(2) of the new section 4118.

Mr. President, a full-time physician would receive $2,000 in incentive special pay for being on full-time status, and a full-time dentist would receive $1,000. A part-time physician or dentist would not, of course, receive any proportion of the full-time factor payment. Thus there would be an automatic differential of at least $2,000 between the incentive special pay for full-time and part-time physicians, and of at least $1,000 between the incentive special pay for full-time and part-time dentists. The purpose of these differentials is to create significant financial incentives for full-time service for physicians and dentists already in the Department, as well as those offered positions in the Department in the future.

SPECIAL PAY FOR DENTISTS

Mr. President, it is fair to say, I believe, that in designing a special pay program for the Department of Medicine and Surgery, the two committees have spent more time and devoted more attention to the subject of whether dentists should be eligible for special pay, than to any other single subject. The House, in the original version of H.R. 8240, decided to include dentists in the special pay provisions of the bill based on providing comparability with uniformed services dentist pay. It did so at a 50-percent rate, so that dentists could receive a maximum of $6,750 in special pay instead of the $13,500 maximum for physicians. On the other hand, the Senate decided not to include dentists at all in the special pay program but did include them in the pay adjustment provision in section 4 of the Senate amendment and in the basic pay and recruitment and retention study in section 3(b) of the Senate amendment. We strongly felt that the data on dentist recruitment and retention in the Department failed to reveal a serious recruitment and retention problem as to dentists, and that without clear evidence of such a problem an exception to the Government-wide basic pay ceiling would not be justified.

The deliberations leading to the formulation of the compromise version again laid great stress on the dentist issue, and once again the status of dentists in a special pay program designed to attract high quality professionals for careers in the Department received the most careful consideration. In the end, the House position finally prevailed. Indeed, Mr. President, this issue was literally one of the very last ones resolved.

Two facts were, in my mind, finally determinative of the dental issue. The first relates to the very important issue of comparability. While it is true that the Department of Medicine and Surgery has not experienced the same dentist recruitment and retention woes that have so severely afflicted the various medical services, it is also true that dentists in the VA are not paid on a scale comparable to their peers in the uniformed services. Dentists in the Armed Forces and the Public Health Service receive, in addition to their basic pay and continuation pay, monthly special pay cumulating as much as $4,200 annually. When all supplemental benefits are added up, the average full-time dentist in the uniformed services earns $4,000 to $5,000 more than the average full-time dentist earns in the VA. Correction of this disparity will improve morale and self-esteem among D.M. & S. dentists.

A second fact that supported the House position on dentists was an alarming increase in dentist resignations during the first quarter of the new fiscal year. The resignation rate among VA dentists almost doubled during that period, as compared to the same period a year ago, and the crucial vacancy rate—the rate that measures the proportion of designated slots unfilled because of recruitment or retention difficulties—rose from 2 percent in June to more than 6 percent in August. These data were, of course, not available to our committee or the Senate when it considered S. 1711.

For both of these reasons, and to forestall a possible forthcoming crisis regarding dentist recruitment and retention comparable in scope and impact to the crisis now afflicting D.M. & S. in the recruitment and retention of physicians, the compromise version of H.R. 8240 in-

cludes dentists in the special pay program, at a rate designed to make their aggregate pay comparable to those of their peers in the uniformed services.

Mr. President, the provision on dentists which was finally adopted in the compromise version is the result of months of hard thinking and hard negotiating. It is not the provision I would have preferred, as I stated earlier. I cannot say that I am satisfied with its inclusion in the form in which it is now included in the compromise version.

But it is one we can all live with in the spirit of compromise and one which, in my opinion, is consonant with the spirit and purpose of the bill.

PART-TIME SERVICE

Under the House bill, only physicians and dentists employed on a half-time or more basis in the Department of Medicine and Surgery were eligible for special pay. The Senate amendment, as did the administration proposal, extended special pay eligibility to all part-time physicians, even those who worked less than half-time in the Department.

Mr. President, many VA physicians work a quarter-time or an eighth-time, not because they necessarily want to, but because a particular hospital can use their services for only 5 or 10 hours a week. A small VA hospital, for example, might not need the full-time services of a cardiac specialist, but might have enough cardiac patients to justify the services of a cardiologist for a single morning or a single day every week. It seemed inequitable and unwise that such a physician, often a specialist serving in a remote area where his services were badly needed, should be deprived of a pro-rata amount of special pay.

Reluctantly, Mr. President, we have acceded to the very strong House insistence on its provision excluding less-than-half-time physicians and dentists from the special pay program. I regret, Mr. President, that in achieving an overall compromise it was necessary to yield on this important point.

CATEGORICAL EXCEPTIONS

Mr. President, I have alluded to the importance, under the Senate amendment, of permitting only categorical exceptions, rather than individual or case-by-case exceptions, to the general entitlement to special pay for physicians and dentists. A further word of explanation is needed with regard to the categories which now, under the compromise version, the Chief Medical Director is given discretion to exclude.

According to the language of the compromise version, any category which, in the Chief Medical Director's judgment, is appropriate for exclusion must be a category "applicable to both physicians and dentists." The Chief Medical Director may not, in other words, deem a category appropriate for exclusion and then exclude only physicians or only dentists in that category—or exclude all dentists or all physicians, for example. He must apply the exclusion so that all doctors in the category—physicians and dentists alike—are excluded.

To take an example, Mr. President, assume that the Chief Medical Director wished to exclude "physician hospital directors." He could not do so without also excluding "dentist hospital directors"—there is, in fact, one dentist hospital director in the VA hospital system. The category, in other words, must not be one that discriminates as between physicians and dentists.

Mr. President, the compromise version statutorily excludes three specific categories of positions as to which there has always been an underlying agreement on exclusion on the part of the Senate and House committees as well as the administration. Those categories are: First, internship and residency training positions, where broad discretion is provided under section 4114(b) of title 38 to establish pay rates wholly competitive with other public- and private-sector training opportunities and where the funding mechanism—with instruction rotating from the VA to affiliated hospitals—is in no way comparable with the title 38 basic pay schedule for regular D.M. & S. physicians; second, intermittent and less-than-half-time positions in the Department; and third, reemployed annuitants.

Mr. President, the Chief Medical Director has indicated that he plans to use his "categorical exception" authority to exclude other categories of physicians and dentists from the special pay program. Most numerous within any single category are the more than 150 full-time physicians and dentists in the career research category—research associates, clinical investigators, and medical investigators. Given the mandated inclusion of dentists, it would seem most inequitable to me to exclude these 150 full-time doctors—a great many of whom spend up to 50 percent of their time in clinical endeavors, actually taking care of patients.

I feel the same way about any decision to exclude doctor hospital directors. There are now 37 physician hospital directors and 1 dentist hospital director in the VA hospital system. For reasons that were expressed at length in the Senate committee report on S. 1711, I have maintained that their exclusion from the special pay provisions would be counterproductive for the long-range interests of the Department of Medicine and Surgery. S. 1711 as reported accordingly guaranteed that all physician hospital directors would receive special pay. I regret to say, Mr. President, that at the House's insistence this language from the Senate amendment was dropped from the compromise version of H.R. 8240. The compromise version would thus permit the Chief Medical Director to exclude physician and dentist hospital directors from eligibility for special pay.

Mr. President, I ask unanimous consent that the text from the Senate committee report explaining the committee's justification for its decision to mandate inclusion of physician hospital directors be printed in the RECORD at this point.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The Subcommittee received extensive testimony on the importance to the VA hospital system of having some physicians as hospital directors. At present, 42 of the VA's 171 hospitals are administered by physician directors. The Subcommittee heard testimony from Chief Medical Director Chase, himself a former hospital director, and from a panel of distinguished VA hospital directors, to the effect that exclusion of physician hospital directors, from the special pay provisions of S. 1711 would be likely, very quickly, to lead to a voluntary exodus from VA hospital directorships of the remaining physician hospital directors.

It seems clearly beneficial to the VA hospital system to retain some qualified physician directors. Physicians often bring to high administrative posts a perspective on hospital decisionmaking and policy formulation in the Department of Medicine and Surgery that complements the perspectives of their nonphysician peers. Furthermore, title 38 requires that the top officials in the Department of Medicine and Surgery be physicians. If the VA hospital system loses its physician directors, then the top officials in the Department could no longer come from the ranks of the physician directors. In the Committee's opinion, it is vital to have persons with experience as hospital directors among the top policymaking officials in the Department. Moreover, with the advent of the new DM&S regional/district system, with 30 medical districts, rather than seven regions (six in headquarters and one in the field)—put into effect on July 1, 1975—it is likely that even more lay administrators will become Medical District Directors, with responsibilities for coordinating hospitals generally also headed by nonphysician directors. This organizational structure provides further need, the Committee believes, for maintaining a reasonable number of physician hospital directors in the system.

Inclusion of physician hospital directors in the special pay provisions of the Committee bill is thus intended, in part, to ensure that the Department can benefit from the services of former physician directors in high administrative positions. Similarly, the Committee believes that it is absolutely necessary to attracting high quality personnel to provide effective management of the Department of Medicine and Surgery that the central office physician administrators be entitled to special pay.

For these reasons, the Committee bill is drafted to require that base special pay be provided to VA physician hospital directors and other physicians in administrative positions.

The Committee recognizes the inequity resulting from the inclusion of physician hospital directors in the special pay provisions of S. 1711 when non-physician directors are not included. The committee believes, however, that even more substantial inequities and liabilities for the overall system would result if physician hospital directors were excluded. Although the Committee recognizes the eligibility of physician hospital directors for the special pay creates an inequitable situation with regard to the nonphysician hospital director, it feels compelled to abide by the statutory ceiling which exists on Federal salaries and which has been excepted only in the case of physicians in the uniformed services.

* * * * *

Mr. CRANSTON. Mr. President, my views on the desirability of including physician hospital directors in the special pay program received support in another context recently when the Department of Defense insisted, over the objections of the Office of Management and Budget, that physician commanders of military hospitals continue to be eligible for annual special pay under the program established by Public Law 93-274. I hope that this important precedent will be followed by the VA Chief Medical Director.

Finally, Mr. President, with respect to categorical exclusions, I note that a provision in the Senate amendment, requiring annual redeterminations as to any excluded category, is not included in the compromise version. It is the intention of both committees, however, Mr. President, that if—hopefully, when—this program is extended beyond 1 year, if there is no Government-wide solution to the physician and dentist pay comparability problem, we will amend section 4118(a)(3) to require an annual redetermination of any doctor category excluded from special pay eligibility.

I realize, Mr. President, that we are not in total agreement with the House on this point, and that the House approves of some of the categories which the Chief Medical Director previously, in amplification of the administration bill, indicated his intention to exclude. Nevertheless, I believe that the spirit and intent of this legislation and equity and fairness will be best served if the Chief Medical Director's "categorical exception" authority lies dormant.

It is, therefore, my strong hope that the Chief Medical Director will not exercise his "categorical exception" discretion to exclude any category of physician and dentist, especially in light of the fact that the numbers of doctors in categories which the Chief Medical Director previously indicated his intention to exclude—before, I would stress, special pay for dentists was mandated in the bill—are so very small.

MULTIYEAR AGREEMENTS

Here, Mr. President, is the single most critical difference between the original House version of H.R. 8240 and the Senate amendment. The House bill established a 1-year special pay program, a "stopgap measure," to quote from the House report, designed as no more than temporary relief—a 1-year respite—from the Department's severe recruitment and retention problems. The Senate amendment, on the other hand, permitted physicians to enter into agreements with D.M. & S. of up to 4 years in length during which time physicians would receive special pay in exchange for their continued service in the Department.

The multiyear option for those physicians wishing to sign a multiyear agreement was derived from Public Law 93–274, last year's uniformed services special pay bill. In that law, physicians in the Armed Forces or the Public Health Service were given the option of receiving special pay for as many as 4 years, in return for an active duty agreement covering the agreed-upon period of time. The attractiveness of the multiyear option is clearly shown by the fact that 54 percent of all uniformed services physicians who signed special pay agreements did so for more than 1 year of service. True comparability with military physicians, we reasoned, could not be achieved in the VA unless D.M. & S. physicians, too, had the option of extending their special pay eligibility for an additional 1-, 2-, or 3-year period beyond the initial year of eligibility.

The Department of Medicine and Surgery, somewhat wary at first of the multiyear option approach in the Senate amendment, later became a strong supporter of that approach. I am delighted to say, Mr. President, that the House saw the tremendous recruitment advantages inherent in the multiyear option approach, and that the compromise version adopts the multiyear agreement provisions from the Senate substitute. This is, I believe, the bill's single most significant feature, and will permit the Department to begin to meet, and project with some accuracy, its recruitment needs for the next several years.

REFUND PROVISION

Mr. President, closely linked with the multiyear agreements issue is the so-called "refund" issue. The House did not address the issue in its bill. The Senate amendment provided that a physician who failed to complete at least 1 year of service in the Department pursuant to a special pay agreement was required to refund to the Department all special pay received prior to the termination of his agreement.

A physician, in other words, who had served 6 months and who then terminated his agreement would owe an amount equal to the 6 months of special pay he had already received, and would be required to pay that sum back as a penalty—more or less in the nature of liquidated damages—for terminating the agreement prematurely.

Under the Senate amendment, a physician with a multiyear agreement who successfully completed 1 year of service in the Department, however, could terminate his special pay agreement at any time without any refund requirement. We felt there was no need for a refund requirement beyond the first year for two reasons: First, because the overwhelming majority of D.M. & S. physicians are honorable men who, having served 1 year of their multiyear agreements, would serve the remainder; and second, because an excessive refund provision in the second or subsequent years of a multiyear agreement would discourage physicians from signing multiyear agreements and would accordingly drastically reduce the value to the Department of a multiyear special pay program.

I am, therefore, delighted, Mr. President, to report that the House of Representatives has agreed, and the compromise version contains a 1-year refund provision as in the Senate amendment.

I wish to make clear, Mr. President, that nothing in the compromise version requires that physician or dentist refund in the form of a lump sum any amount owed. It is our intention that the Administrator develop regulations to permit the payment of refunds in reasonable installments, and that the agreement will specifically incorporate this refund policy.

EFFECT OF THE COST-OF-LIVING PAY RAISE

Mr. President, I referred earlier in my statement to a "reduction factor". Let me explain that term now.

Under the House bill, physicians and dentists whose salaries were not already impacted at the $36,000 Federal salary ceiling received a basic pay raise on account of the new physician and dentist schedule which that legislation substituted for the existing schedule in section 4107(b) of title 38. For example, an entering chief-grade physician, whose salary under the existing physician and dentist schedule would be $29,818 would have received a salary of $35,000 under the revised schedule in the House bill—a salary increase of $5,182, or 17.4 percent. Had that physician received an additional $9,500 in special pay, which was what the average 12-year D.M. & S. chief-grade physician would have received under the House bill, his total compensation would have risen $14,682, or 49.2 percent in a single year.

The House bill included a provision reducing the amount of the special pay of a physician or dentist receiving basic pay of less than $36,000, by the amount realized because of the adoption of a new physician and dentist schedule. To use the example just given, the physician's $5,182 salary increase under the House-proposed new schedule would be subtracted from his $9,500 in special pay, to keep his total pay increase to $9,500. Under the House bill provisions, in other words, a physician's or dentist's aggregate pay increase would have been limited to the amount he received in special pay, to prevent undue pay increases in a single year.

This concept is retained under the compromise version of the bill. The compromise version, as I stated earlier, contains a new physician and dentist schedule which codified into title 38 the 5-percent comparability increase to be effective next week under Executive Order No. 11883—dated October 6, 1975. Physicians and dentists, therefore, will be receiving a 5-percent increase in basic pay as well as special pay. The House has insisted that its "reduction factor" be retained.

The Senate amendment had no comparable provision calling for such a reduction. Mr. President, for many weeks we insisted that the "reduction factor" provision not be retained in the compromise version. We considered it most unfair that D.M. & S. physicians and dentists should, in effect, be deprived of their comparability increases just because they will be receiving special pay, especially since this special pay amount was computed to provide pay comparability on the basis of economic factors well over 6 months old and, indeed, in part 18 months old, because the $13,500 special pay maximum was derived directly from the uniformed services special pay amount specified in Public Law 93–274, enacted May 6, 1974. This inequity is the more apparent since physicians and dentists in the uniformed services last year received and this year will receive the amount of both their special pay entitlement and the basic pay comparability increase. For the D.M. & S. physician whose basic pay has been impacted at the $36,000 ceiling for as long as 6 years—40 percent are now so limited—I believe this reduction factor is particularly onerous and unfortunate.

I regret very much that the House would not budge from its position, and with reluctance we agreed to a reduction factor in the compromise version. We have perfected and made the provision

more equitable to reduce the amount of special pay actually to be paid as to all recipients of special pay by the amount of the 5-percent increase in basic pay effective October 12, 1975.

I stress, Mr. President, that, although this year's 5-percent basic pay increase amount will be deducted from a physician's or dentist's special pay, subsequent comparability increases will not, under the compromise version, be deducted in the future, and D.M. & S. physicians and dentists who sign multiyear agreements will hereafter receive the full amount of both their basic pay increases and their special pay entitlements for the duration of the subsequent years of their agreements.

EFFECTIVE DATE

Mr. President, the House bill had an effective date of September 28 for its special pay provisions. The Senate amendment had a July 1 effective date, with payments of special pay to be made retroactive to that date.

Under the compromise version, the special pay provisions are effective on October 12. This date was chosen both because of the long time which has been necessary to secure enactment of this legislation, and also in order to correspond to the effective date, as to D.M. & S. employees, of the Executive Order No. 11883 comparability basic pay increase. I wish to point out, Mr. President, that although the compromise version sets a later effective date than the earlier House or Senate versions, it does not in any way reduce the total annual amount of special pay to which a physician or dentist is entitled, since the expiration date of October 11, 1976, is correspondingly later than the expiration dates in the earlier versions of the bill.

Let me add at this point, Mr. President, that the Senate amendment originally tied the expiration date of the D.M. & S. special pay program to the expiration date of the uniformed services special pay program under Public Law 93–274, so that congressional action to extend the authority contained in the uniformed services law would automatically have extended for a comparable period of time the VA's authority to enter into special pay agreements. The House strongly objected to the automatic extension feature, and it is, therefore, not included in the compromise version.

However, the compromise version does include in section 2(a) a finding and declaration of the Congress recognizing the clear relationship between this special pay program and the one enacted in Public Law 93–274 in terms of providing pay comparability between D.M. & S. doctors and the medical officers of the uniformed services. As I have indicated, it would be my plan next year, if a Government-wide pay comparability solution has not been found prior to expiration of the uniformed services special pay program, to introduce an amendment to any uniformed services extension bill in order to extend this D.M. & S. program for a comparable period.

INDEPENDENT REVIEW AND REPORT ON GOVERNMENTWIDE PAY COMPARABILITY

Mr. President, the compromise version resolves several major differences of approach between the House and Senate provisions requiring an independent study of the recruitment and retention and pay comparability problems relating to physicians, dentists, and other health care personnel in Federal agencies and departments, including the VA.

Under the House bill, the Comptroller General of the United States was required to prepare a report on the recruitment and retention of physicians and dentists only, pursuant to a very specifically prescribed scope with a due date of August 31, 1976. The Senate amendment directed a report be prepared by the Director of the Office of Management and Budget instead of the Comptroller General, extended the scope of the report to include all health care dentists only, and had a due date of personnel rather than physicians and dentists only, and had a due date of March 1, 1976.

Under the compromise version, the Comptroller General and the Director of the Office of Management and Budget are each required to submit separate reports on the recruitment and retention and pay comparability problems of physicians and dentists in the VA and other Federal departments and agencies, with an August 31, 1976, due date. In addition, the compromise version requires the Comptroller General to prepare a second report covering the recruitment and retention and pay comparability problems of other health care personnel in the Federal Government, with a due date of March 1, 1977.

The compromise version also requires the Chief Medical Director to prepare reports specifying the effect on the Department's administration of the various recommended courses of action contained in the reports on the OMB and GAO, for submission to the House and Senate Committees on Veterans' Affairs no later than 120 days after the date on which each of the GAO reports and the OMB report is submitted to Congress.

In addition to the reports required by the legislation, language in the Senate Committee report on S. 1711 directed the Chief Medical Director to submit a report to the Senate Committee on Veterans' Affairs, by October 1, 1975, reviewing in detail; first, the extent of regional recruitment and retention problems, and their location, in the employment of nonphysician VA health care personnel; second, the extent to which existing title 38 and title 5 authorities have been able to be exercised in a way adequate to deal with those problems; and third, the problems entailed in the VA or elsewhere in the Federal Government with the application of regional or local salary differentials, particularly any apparent tendency for health care personnel to move from areas where no special rates are in existence to take comparable positions in areas where special rates have been established in their occupations. The Chief Medical Director was directed in the report to consult with the Civil Service Commission in preparing this report.

Mr. President, these reports are a critical part of the legislation. We recognize, as do our colleagues in the House, that a special pay program—even one designed to last 4 years, such as this one—can never be more than a temporary solution to the very grave recruitment and retention problems now facing the Department of Medicine and Surgery. We must act at the same time to develop and consider other options and to formulate a permanent, long-range solution to these problems.

By involving the Office of Management and Budget and the General Accounting Office, we are involving the expertise of two agencies with years of experience in dealing with personnel and pay issues. The compromise version requires these agencies to formulate, in their separate, independent reports, alternative suggested courses of legislation or administrative action, and then to recommend and justify the particular course of action which, in the agency's opinion, should appropriately be undertaken. I emphasize, Mr. President, that, as chairman of the Subcommittee on Health and Hospitals, I intend to take their recommendations very seriously.

The studies by the Office of Management and Budget and the General Accounting Office are the critical longer-range aspect of this bill, and the Congress, I know, will evaluate their reports and suggestions very carefully.

This does not necessarily mean, Mr. President, that the Congress should feel restrained from legislating in this area until the reports are completed. I feel strongly that if, pending the completion of any of the reports required by the compromise version, the Senate or House wishes to legislate in any area touching directly or indirectly on the subject of those reports, it should not hesitate to do so. The reports should not preempt congressional action when the need for timely action is present.

NONPHYSICIAN PROVISIONS

Mr. President, the House bill dealt only with special pay for—as well as a study regarding—physicians and dentists. The Senate amendment, on the other hand, contained four provisions relating to the recruitment and retention of other health care personnel, such as dentists, registered nurses, licensed practical and vocational nurses, optometrists, physicians' assistants and expanded-duty dental auxiliaries, medical, laboratory, and X-ray technologists and technicians, and many other categories of health care personnel.

Briefly, the provisions in the Senate substitute achieved four goals:

First. Physicians' assistants and expanded-duty dental auxiliaries, currently paid according to civil service commission-prescribed standards and regulations, were transferred to the title 38 D.M. & S. personnel system, to be paid under the nurse schedule in section 4107.

Second. Registered nurses were permitted voluntary compensatory time off under certain circumstances instead of overtime pay for certain overtime work performed.

Third. The premium and overtime benefits currently enjoyed by registered nurses were extended to any personnel whose "principal responsibilities—relate directly to patient care," including licensed vocational and practical nurses,

medical, laboratory, and X-ray technologists and technicians, and many others.

Fourth. In-grade pay adjustments were permitted on a nationwide basis for any category of health care personnel when necessary to meet competitive pay practices at non-VA institutions or to provide internal pay alinement within the VA.

The compromise version of H.R. 8240 includes only the first two of these four provisions. We agreed to drop the other two provisions, Mr. President, only because the recruitment and retention of other health care personnel, such as licensed vocational and practical nurses, nursing assistants, optometrists, medical, laboratory, and X-ray technologists and technicians, and others, is to be the subject of a separate report by the Comptroller General, as I outlined earlier. It is specifically the intention of both committees that the desirability of the two Senate amendment provisions that were dropped from the compromise version be specifically studied and addressed in that report.

Of particular concern to the committees is the problem of internal competition within VA hospitals, and geographic competition from non-VA facilities, for the services of nursing assistant and licensed practical and vocational nursing personnel—a problem discussed in detail on page 14 of the Senate Committee report. It is our intention that the Comptroller General's report should deal in depth with those competition problems.

Mr. President, I wish to reiterate that should we become convinced in the future that those two Senate-passed provisions are necessary to prevent a severe recruitment and retention problem involving the relevant categories of health care personnel, we will feel no compunction at all about introducing and proceeding with consideration of the appropriate legislation, even if the Comptroller General's report is not yet completed.

COST ESTIMATE

Mr. President, according to the latest cost estimate worked out by the House and Senate Committees on Veterans' Affairs in conjunction with the Department of Medicine and Surgery, the compromise version of H.R. 8240 will cost a total of $40.118 million in fiscal year 1976. The special pay provisions for physicians, with a fiscal year 1976 cost of $38.032 million, will be by far the largest single cost item. The special pay provisions for dentists will cost $1.8 million in fiscal year 1976. The inclusion of physicians' assistants and expanded-duty dental auxiliaries in the title 38 personnel and pay system will cost $300,000 in fiscal year 1976; the figure is so low because at present the VA employs only approximately 80 physicians' assistants.

The fiscal year 1977 estimated cost of the compromise version is $49.716 million, decreasing to $3.519 million in fiscal year 1980.

Mr. President, I ask unanimous consent that a table prepared by the VA, at my request, showing a 5-year cost projection for the compromise version of H.R. 8240 be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

5-YEAR COST PROJECTION[1] FOR COMPROMISE VERSION OF H.R. 8240, THE VETERANS' ADMINISTRATION PHYSICIAN AND DENTIST PAY COMPARABILITY ACT OF 1975

[In thousands of dollars]

	Fiscal year 1976	3-mo. transition	Fiscal year 1977	Fiscal year 1978	Fiscal year 1979	Fiscal year 1980
Special pay for physicians	38,032	13,411	47,559	42,803	38,523	2,785
Special pay for dentists	1,786	627	1,607	1,446	1,301	64
Subtotal physicians and dentists	39,818	14,038	49,166	44,249	39,824	2,849
Nurse schedule for physicians' assistants and expanded-duty dental auxiliaries	300	79	550	670	670	670
Total	40,118	14,117	49,716	44,919	40,494	3,519

[1] Estimates are based on a full-time equivalent employment of 7,792 physicians and 892 dentists in the Department of Medicine and Surgery as projected in the President's budget for fiscal year 1976 (as revised to reflect current operating conditions on Sept. 30, 1975) with adjustments for excluded part-time employees and conversions upward of half-time. The estimates for fiscal year 1977–80 anticipate some turnover (10 percent) of special pay recipients.

Mr. CRANSTON. Mr. President, I would like to make three comments about the figures in this table. First, the dollar amounts for special pay for physicians and dentists in fiscal years after 1976 are probably overstated. The table assumes that all physicians and dentists who enter into special pay agreements will do so for the maximum 4 years of service, with an estimated 10 percent annual attrition rate. The percentage of physicians and dentists who enter into 4-year agreements will probably be less than 100 percent. In the cost estimate provided for this identical provision in the S. 1711 committee report, page 31, the VA estimated that 75 percent of physicians would enter into agreements for more than 1 year. This figure may prove to be more realistic. In other words, the special pay cost estimates for fiscal years 1977, 1978, and 1979 may be $10 to $20 million too high, but more accurate figures are impossible to estimate until we have a clearer idea of how many physicians and dentists will sign multiyear agreements.

Second, the estimated cost of the special pay program is lower than previous cost estimates, because of the "reduction factor" that effectively reduces by 5 percent of basic pay the amount of special pay to which each physician or dentist is entitled. As described earlier, the enactment of this legislation, even with a new Physician and Dentist Schedule in it, does not, by virtue of section 5303 (n) of title 5, entail the cost of the 5-percent basic pay raise for title 38 physicians and dentists. Rather, the cost of this pay raise is the result of the previous enactment of Public Law 94–82 and the promulgation on October 6, 1975, of Executive Order No. 11883, pursuant to the Pay Comparability System established by subchapter I of chapter 53 of title 5.

Third, Mr. President, the estimated cost of including physicians' assistants and expanded-duty dental auxiliaries in the title 38 pay system rises from $300,000 in fiscal year 1976 to $550,000 in fiscal year 1977, and to $670,000 thereafter. This represents what I hope will be a sizable increase in the number of these personnel employed in the Department of Medicine and Surgery. This cost factor will obviously rise still further in future fiscal years as the Department hires more of these vitally needed personnel in compliance with the mandate to do so expressed in section 4101(b) of title 38.

Mr. President, I ask unanimous consent that a detailed section-by-section analysis of the compromise version of H.R. 8240, worked out in consultation with the House Committee, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

CONCLUSION

Mr. CRANSTON. Before concluding, Mr. President, I want to express my very deep and great appreciation to the members of the House Committee on Veterans' Affairs, under the leadership of its chairman (Mr. ROBERTS), the chairman of the Subcommittee on Hospitals (Mr. SATTERFIELD), and the ranking minority member (Mr. HAMMERSCHMIDT). They were given the most able assistance by committee staff director Oliver Meadows, staff investigator Gene Howard, general counsel Mack Fleming, and minority staff director John Holden, who worked many long days and nights with the staff on the Senate side—Larry White, Louise Ringwalt, Jon Steinberg, Guy McMichael, Tyler Craig, John Napier, and Harold Carter.

Finally, without the fine cooperation and assistance of all members of our committee on this side, we would never have achieved this important reconciliation of the two bills and be bringing to fruition the process of enacting this vital legislation. So I thank again and congratulate for this important achievement the distinguished chairman of the Committee on Veterans' Affairs (Mr. HARTKE), the ranking minority member of the committee (Mr. HANSEN), the ranking minority member of the Health and Hospitals Subcommittee (Mr. THURMOND), and, of course, my dear colleague

from West Virginia (Mr. RANDOLPH), our subcommittee ranking majority member.

VETO THREAT

Mr. President, there have been various implications emanating from the administration that this bill might be vetoed if dentists were included in the special pay provisions. I must say that I find this hard to believe or at least hard to justify. First, Mr. President, as I have outlined, there is a good rationale, as pointed out in the debate in the other body as well as previously in this statement, for providing comparability to Department of Medicine and Surgery dentists based on the monthly special pay and continuation pay available to dentists in the uniformed services under title 37 of the United States Code.

Second, Mr. President, the cost of the inclusion of dentists in fiscal year 1976 is $1,786,000 and less than that in each of the succeeding fiscal years. The cost involved thus could hardly justify the veto of such an important measure.

Third, there has been a contention expressed that if annual special pay is provided to VA dentists in the Department of Medicine and Surgery, this will somehow bring about the provision of annual special pay to dentists in the uniformed services. The logic of this argument totally escapes me because as pointed out in the discussions with respect to comparability, the very reason that we are providing the annual special pay for VA dentists is to bring their aggregate pay into line with the present total amount of pay available to dentists in the uniformed services. Thus, any such provision of annual special pay to uniformed services' dentists would merely restore the lack of comparability that we are trying to correct. And, in any event, Mr. President, no such annual special pay will be able to be paid without the enactment of legislation authorizing it, and I very much doubt that the implausible contention on this point will have very much weight when subject to close congressional scrutiny.

Thus, Mr. President, I can see no justification whatsoever for a veto, and I believe that the President and his advisors will not be able to find any. Indeed, this bill is very closely in line with the administration's own proposed legislation and is urgently needed by the Department of Medicine and Surgery to put a stop to the serious exodus of critical health care professionals from its ranks.

Should, nevertheless, a veto be forthcoming, Mr. President, I can certainly pledge to all of those who are watching our actions today in the Department of Medicine and Surgery and outside, that I am fully committed to using all of my energies to bring about an immediate override of any such unwise and inequitable action by the President.

EXHIBIT 1

SECTION-BY-SECTION ANALYSIS OF COMPROMISE VERSION OF H.R. 8240, PROPOSED "VETERANS' ADMINISTRATION PHYSICIAN AND DENTIST PAY COMPARABILITY ACT OF 1975"

SECTION 1

Provides that this Act may be cited as the "Veterans' Administration Physician and Dentist Pay Comparability Act of 1975".

SECTION 2

Amends subchapter I of chapter 73 of title 38, United States Code, to provide special pay, and make certain conforming changes, to assist the Department of Medicine and Surgery (the "Department") in recruiting and retaining career physicians and dentists in the Veterans' Administration ("VA").

Subsection (a) declares as a Congressional finding of fact that the Department's ability to recruit and retain qualified physicians has been seriously impaired by the statutory ($36,000) ceiling on Federal salaries, the effect of which has been aggravated by the sharp escalation in the cost of living since the ceiling was imposed in 1969, and, furthermore, that the compensation provided to physicians and dentists has been rendered noncompetitive with other Federal physician and dental salaries, on account of payment of annual special pay to certain medical officers of the uniformed services pursuant to Public Law 93–274 and monthly special pay and continuation pay to certain dental officers pursuant to title 37, United States Code. This subsection further declares as a Congressional finding of fact that the recruitment and retention problems thereby created threaten to erode the Department's ability to compete for the services of these highly qualified health care professionals and to provide quality health care to eligible veterans.

Subsection (b) makes a series of amendments to present section 4107 of title 38 (specifying grades and pay scales) designed to (1) place the specification of the basic pay (salary) levels of the top two officials of the Department within title 38 rather than in the Executive Schedule in title 5, United States Code, as at present; (2) raise and realign the statutory levels of their basic pay and the basic pay of other administrative personnel in the Department; and (3) substitute a new "Physician and Dentist Schedule" of grades and pay for the old schedule in section 4107(b). The amounts of basic pay payable under section 4107 would, however, continue to be governed by the Government-wide pay ceiling (rising from $36,000 to $37,800) pursuant to the provisions of Public Law 94–82 and Executive Order No. 11883 (October 6, 1975) effective with the first pay period beginning on or after October 1, 1975.

Clause (1) amends subsection (a) by deleting, in light of the amendment made in clause (2) of this subsection and subsection (c) of this section (section 2) of the bill, the language which denotes that the pay scale of the Chief Medical Director and Deputy Chief Medical Director are not provided for in the "Section 4103 Schedule".

Clause (2) amends subsection (a) by striking out the present reference to the basic pay of the Associate Deputy Chief Medical Director, and basic pay rates for the Assistant Chief Medical Directors, and the Medical Directors, and substitutes designations of basic pay levels for such top officials of the Department as follows:

Chief Medical Director, $54,000.

Deputy Chief Medical Director, $52,000.

Associate Deputy Chief Medical Director, $50,000.

Assistant Chief Medical Director, $48,654.

Medical Director, $42,066 minimum to $47,674 maximum.

The rates of basic pay of the three top officials of the Department are currently set by the Executive Schedule at levels III, IV, and V, respectively, as follows: $40,000 for the Chief Medical Director, $38,000 for the Deputy Chief Medical Director, and $36,000 for the Associate Deputy Chief Medical Director. All of the non-title-38 positions in Executive Level III are filled by Presidential appointment by and with the advise and consent of the Senate, and the same is true of virtually all the positions at Executive Level IV and V as well. In contrast, the three top officials in the Department are nonpartisan officials appointed for four-year statutory terms of service by the Administrator of Veterans' Affairs rather than the President. Thus, it seems more desirable to set the rates of basic pay for these top Department officials in the title 38 pay system rather than in the Executive Schedule.

The new statutory dollar levels specified in title 38 were determined by reference to the existing statutory basic pay rates for Assistant Chief Medical Directors. That salary is currently $46,366. Under the Executive Order, effective October 12, 1975, as to employees in the Department, the basic pay level for an Assistant Chief Medical Director will be raised by 5 percent to $48,684. This figure was the base on which the basic pay rates for the three higher officials of the Department were calculated. A basic pay rate of $50,000 was deemed appropriate for the Associate Deputy Chief Medical Director, with $2,000 increments for the Deputy Chief Medical Director ($52,000) and the Chief Medical Director ($54,000).

Clause (3) revises the grades and annual full-time basic pay rates for physicians and dentists in the Department by substituting a new "Physician and Dentist Schedule" for the existing one in section 4107. The schedule now in title 38 was last amended by Public Law 93–82 (August 2, 1973) and has been increased twice since then by Executive Order (No. 11739 (October 3, 1973) and No. 11811 (October 7, 1974)). Under the new schedule, minimum rates are raised by from $774 (in the Associate grade) to $1,731 (in the Director grade) annually. The new schedule codifies the 5-percent comparability pay raise authorized by Executive Order No. 11883, effective on October 12, 1975, as to employees in the Department. All figures in the new schedule, in other words, are 5 percent greater than the comparable figures presently applicable.

The ceiling on basic pay rates set by subsection (d) of section 4107, as amended by clause (4) of this subsection of the bill, will continue to operate to limit basic pay of many physicians and dentists in the Director, Executive, and Chief grades. Furthermore, under subsection (d)(1) of the new section 4118, to be added to title 38 by subsection (d)(1) of this section of the bill, a physician or dentist eligible for special pay will have the amount of special pay reduced by the amount of the increase in annual basic pay realized as a result of the five-percent pay raise effective October 12, 1975, and codified in the new section 4107 Physician and Dentist Schedule. The effect of this reduction is to limit any physician or dentist to a total pay raise of not more than the $13,500 maximum originally prescribed in both House and Senate versions of the bill.

Clause (4) amends present section 4107(d) to set a basic pay ceiling for the Chief Medical Director (increasing from $40,000 to $42,000 by virtue of the five-percent pay raise under Executive Order No. 11883 and Deputy Chief Medical Director (increasing from $38,000 to $39,900 by virtue of that Order) by reference to levels III and IV, respectively, in the Executive Schedule—their present statutory levels. It should be noted that all of the salaries in the "Section 4103 Schedule" (for top officials of the Department)—as well as the section 4107 Physician and Dentist Schedule—to the extent that they exceed the existing salary ceiling of $36,000 ($37,800 as of October 12), are limited by present subsection (d), applying to title 38 positions the Government-wide ceiling set forth in section 5308 of title 5, United States Code. If subsection (d) were not amended, this same ceiling would, by

virtue of the amendments made by clause (2), apply to the basic pay of the Chief Medical Director and Deputy Chief Medical Director, thus making the effect of moving the specification of these two officials' basic pay rates to title 38 a reduction in their basic pay of $4,200 and $2,100, respectively. To avoid this result, clause (3) therefore amends present subsection (d) to set the salary ceilings for the two officials by reference to their current Executive Schedule levels. For all other personnel paid under the title 38 personnel system, subsection (d) as amended would continue in effect the salary ceiling imposed by section 5308 of title 5, United States Code, as to basic pay.

Subsection (c) makes conforming amendments to sections 5314 and 5315 of title 5, United States Code, consistent with the amendments made by subsection (b) of this section of the bill.

Subsection (d): Paragraph (1) adds a new section 4118 to title 38, United States Code, providing for the payment to eligible physicians and dentists in the Department of special pay totalling up to $13,500 annually for physicians and up to $6,750 annually for dentists, upon acceptance of a written agreement executed by the physician or dentist to complete a specified number of years of service in the Department.

New Section 4118(a): Paragraph (1) directs the Administrator, pursuant to regulations which he shall prescribe, to provide special pay totalling up to $13,500 annually to eligible physicians, and up to $6,750 annually to eligible dentists.

Paragraph (2) removes from eligibility for special pay any physician or dentist who (A) is employed on a less-than-half-time basis, or is employed intermittently (such as consultant or attending physicians and dentists), by the Department, (B) occupies an internship or residency training position, or (C) is a reemployed annuitant.

Paragraph (3) permits exclusion from eligibility for special pay of those categories of physicians and dentists—such as hospital directors and research positions—as to which, as determined by the Chief Medical Director pursuant to the Administrator's regulations, there is no significant recruitment and retention problem.

New Section 4118(b): Clause (1) directs the Administrator to exercise the authority granted him under new section 4118 to pay the maximum amount of special pay ($13,500)—subject to reduction as specified in subsection (d)(1) of the new section—to the top two officials in the Department. Special pay for these officials is established by statute to prevent any conflict of interest or appearance of conflict, since they will administer and bear responsibility for the special pay program.

Clause (2) directs the Administrator to pay "primary special pay" totalling $5,000 annually to all eligible full-time physicians and $2,500 annually to all eligible full-time dentists, in the Department.

Clause (3) directs the Administrator to pay to any eligible part-time physician or dentist employed on a half-time-or-more basis the proportion of a full-time physician or dentist's primary special pay entitlement that corresponds to that proportion of his full-time employment which he works in the Department. In other words, a physician who works for the Department on a half-time basis would receive $2,500 in primary special pay (half of $5,000); a dentist who works for the Department on a three-quarter-time basis would receive $1,875 (three-quarters of $2,500).

New section 4118(c): directs the Administrator to provide, in addition to the primary special pay described above, "incentive special pay" to any eligible physician or dentist, in an amount not to exceed annually (1) $8,500 for a full-time physician, (2) $4,250 for a full-time dentist, or (3) proportionally reduced amounts for physicians and dentists employed on a half-time-or-more basis. Incentive special pay is to be awarded only on the basis of specifically enumerated factors, as shown in the following table: the per annum dollar amounts shown are for a full-time physician; the amounts shown in parentheses are for a full-time dentist; a part-time physician or dentist is entitled, where appropriate, to up to a proportionally reduced amount of the relevant figure:

For physicians and dentists not holding prescribed professional positions:

Full-time status	$2,000	($1,000)
Tenure of service within the Departments, as follows:		
Completion of probationary period or 3 years, whichever is the lesser	$1,000	($500)
Completion of 7 years	$2,000	($1,000)
Scarcity of medical or dental specialty*	$2,000	($2,000)

*In order to provide a significant financial incentive to assist the Department in recruiting and retaining the services of certain dental specialists, such as oral surgeons, periodontists, endodontists, and orthodontists, the statutory specifications provide that up to $2,000 in incentive special pay may be paid to a dentist for "scarcity of dental specialty"; this sum equals the commensurate sum payable to physicians in scarce specialties instead of the standard 50 per cent reduction as all other factors delineated in the statute are applied to dentists.

Continuing education certification	$500	($250)

For physicians and dentists holding professional positions as follows:

Service Chief not in a scarce medical or dental specialty, or Associate Chief of Staff	$5,500	($2,750)
Service Chief in a scarce medical or dental specialty	$7,000	($3,500)
Chief of Staff, or Executive Grade	$7,000	($3,500)
Director Grade, or Deputy Service Director	$7,250	($3,625)
Service Director	$7,500	($3,750)
Deputy Assistant Chief Medical Director	$8,000	($4,000)
Associate Deputy Chief Medical Director, or Assistant Chief Medical Director	$8,500	($4,250)
Continuing education certification	$500	($250)

A full-time physician would receive $2,000 in incentive special pay for being on full-time status (a full-time dentist would receive $1,000). A part-time physician or dentist would *not*, of course, receive any proportion of the full-time factor payment. Thus there would be an automatic differential of at least $2,000 between the incentive special pay for full-time and part-time physicians, and at least $1,000 between the incentive special pay for full-time and part-time dentists. The purpose of these differentials is to create significant financial incentives for full-time service for physicians and dentists already in the Department, as well as those offered positions in the Department in the future.

New section 4118(d): Paragraph (1) provides that the total amount of special pay received pursuant to this new section must be reduced by the October 12, 1975, five-percent increase in basic pay provided under the pending Executive Order and codified into title 38 by the new Physician and Dentist Schedule set forth in subsection (b)(3) of this section of the bill.

Paragraph (2) establishes ceilings on the aggregate pay (basic pay pursuant to the new Physician and Dentist Schedule rates, plus special pay) payable to a part-time physician or dentist. Under this provision, during the period that these basic pay rates are in effect, a part-time physician may not receive aggregate pay from the VA or more than $42,000 annually, and a part-time dentist may not receive more than $37,000.

New section 4118(e): Paragraph (1) requires that the written agreement for special pay entered into by physicians and dentists with the Department be for one year of service (and one year of special pay eligibility); if, however, the physician or dentist requests that the agreement cover a longer period of service, then the agreement (and special pay eligibility) shall extend over a period not to exceed four years in total duration. This provides comparability with the 4-year term of the special pay agreements available to medical officers of the uniformed services pursuant to Public Law 93-274.

Paragraph (2) provides that the agreement shall (A) require that the physician or dentist refund to the Department the total amount of special pay received under the new section 4118 in the event that he fails to complete at least one year of service pursuant to the agreement; and (B) specify the terms under which the VA and the physician or dentist may elect to terminate the agreement.

Paragraph (3) provides that special pay shall be paid in biweekly installments to any eligible physician or dentist who signs an agreement under the new section.

Paragraph (4) establishes a forty-five day period from the date of enactment of the Act, during which all physicians and dentists employed by the Department on or before October 12, 1975, may negotiate and sign special pay agreements. Any physician or dentist who signs an agreement during this 45-day period is entitled to special pay beginning on October 12, 1975, the effective date of the new section 4118. A new physician or dentist who signs a special pay agreement during the 45-day period is entitled to special pay beginning on his first day of employment. Any physician or dentist who signs a special pay agreement after the close of the 45-day period, including those newly recruited as well as previously employed, is entitled to special pay beginning on the date on which the agreement is entered into or the first date of employment, whichever date is later.

New section 4118(f) provides that amounts received by physicians and dentists as special pay under the new section 4118 shall not be considered as "basic pay" for purposes of retirement, insurance, workers' compensation, severance pay, or accrued leave benefits under title 5, United States Code, or for purposes of any other benefits related to basic pay. *Cost*: Enactment of the new special pay provisions would probably entail a first-full-year cost of $55,308,000, and a FY 1976 cost of $39,818,000.

Paragraph (2) of section 2(d) of the bill amends the table of sections at the beginning of chapter 73 of title 38, United States Code, to add a reference to the new section 4118 added to title 38 by paragraph (1) of this subsection.

SECTION 3

Requires the Administrator of Veterans' Affairs to submit an annual report to the House and Senate Committees on Veterans' Affairs regarding the operation of the special pay program authorized by new section 4118 added to title 38 by section 2(d)(1) of the bill, setting forth a review of the implementation of the program to date for the fiscal year for which the report is submitted and for any portion of the preceding fiscal year not included in the previous annual report, and any plans in connection with the program for the succeeding fiscal year. The report is to be submitted not later than April 30 of each year.

This reporting requirement is virtually identical to that in subsection (e) of section

313 of title 37, United States Code, with respect to the section 313 annual special pay program for military and Public Health Service medical officers authorized by that section, as added by Public Law 93-274.

SECTION 4

Directs the Comptroller General of the United States and the Director of the Office of Management and Budget each to conduct independent comprehensive investigations of the recruitment and retention of qualified physicians and dentists for service in the Federal government, including the VA, and to prepare and submit separate reports thereon to the Congress (copies to be submitted to the House and Senate Committees on Veterans' Affairs).

Subsections (a) and (b) direct the Comptroller General and the Director of the Office of Management and Budget each to investigate the Federal government's short-term and long-term problems relating to the recruitment and retention of qualified physicians and dentists, to identify alternative legislative or administrative courses of action to solve any existing recruitment and retention and pay comparability problems, and to recommend the course of action which should, in their opinion, be undertaken. Their separate reports on the recruitment and retention and pay comparability of physicians and dentists are to be submitted to the Congress (and the two Committees) by August 31, 1976.

Subsection (c) directs the Comptroller General and the Director of the Office of Management and Budget each to consult, to the maximum extent feasible, with each other as well as with the Administrator of Veterans' Affairs and the heads of other appropriate Federal departments and agencies in preparing the reports required by subsection (a) of this section.

Subsections (d) and (e) direct the Comptroller General to investigate the Federal government's recruitment and retention problems with regard to all health care personnel other than physicians and dentists (including analysis of applicable pay systems and pay relationships—including premium and overtime pay—and their relationship to nationwide and geographical recruitment and retention problems), to identify alternative legislative or administrative courses of action to alleviate or solve any existing recruitment and retention and pay problems and to recommend the course of action which should, in his opinion, be undertaken. The Comptroller General's report on the recruitment and retention of other health care personnel is to be submitted to Congress (copies to the two Committees) by March 1, 1977.

Subsection (f) directs the Comptroller General to consult with the Chief Medical Director and with the heads of other appropriate Federal departments and agencies in preparing the report required by subsection (d) of this section.

Subsection (g) requires the heads of all Federal departments and agencies to cooperate fully with and respond expeditiously to all reasonable requests for information and assistance in connection with the preparation of the three reports required by this section.

Subsection (h) requires the Chief Medical Director to prepare reports specifying the effect on the administration of the Department and the achievement of its mission of the alternative courses and recommended course of action identified in the respective reports by the Comptroller General and the Director of the Office of Management and Budget, as required by this section. Such reports are to be submitted by the Administrator of Veterans' Affairs to the appropriate House and Senate Committees no later than 120 days after the date on which each of the G.A.O. reports and the O.M.B. report is submitted to Congress.

SECTION 5

Amends chapter 73 of title 38, United States Code, to assist the Department in recruiting and retaining the services of certain non-physician and non-dentist health care personnel. The provisions in section 5 are designed to achieve two specific purposes:

(1) To provide for the appointment under the title 38 personnel system of physicians' assistants and expanded-duty dental auxiliaries.

(2) To provide for voluntarily requested compensatory time off for VA registered nurses in lieu of overtime pay.

Subsection (a) amend clause (1) of present section 4104 (authorizing excepted appointments of certain health care professional personnel) to include physicians' assistants and expanded-duty dental auxiliaries in that clause specifically.

Subsection (b) amends present section 4105 (specifying qualifications of appointees) to include appropriate references to physicians' assistants and expanded-duty dental auxiliaries in subsections (a) and (b) of that section. The Administrator is charged with setting the qualifications and experience for these new positions by the amendment made to present section 4104 by section (a) of this section of the bill.

Subsection (c) adds at the end of present section 4106 (regarding periods of appointments and promotions) a new subsection (f) including by reference physicians' assistants and expanded-duty dental auxiliaries under the provisions of that section.

Subsection (d): Clause (1) amends paragraph (5) (presently prohibiting compensatory time off in lieu of overtime pay for nurses) of present section 4107 to permit such compensatory time off to be granted, but only upon the voluntary written request of the nurse in question. This provision is intended to be used only in situations where the nurse has been engaged in emergency duty preceding a regularly scheduled tour.

Cost: Enactment of this provision would entail a modest cost savings.

Clause (2) inserts at the end of present section 4107 a new subsection (f) entitling physicians' assistants and expanded-duty dental auxiliaries to compensation under the Nurse Schedule grade titles and related pay ranges and to additional premium and overtime pay on the same basis as provided for nurses in paragraphs (2) through (8) of subsection (e) of present section 4107.

Subsection (e) amends present section 4108 (regarding the setting of hours and conditions of work for physicians, dentists, and nurses) to add physicians' assistants and expanded-duty dental auxiliaries under the provisions of this section.

Cost: Enactment of the provisions regarding physicians' assistants and expanded-duty dental auxiliaries would probably entail an average full-year cost of $0.6 million (estimating a $2,000 higher entry salary and a quadrupling of the number (81 as of June 30, 1975) of physicians' assistants presently employed by the Veterans' Administration).

SECTION 6

Establishes effective dates for the various provisions of the bill.

Subsection (a): Paragraph (1) provides that the basic and special pay provisions for physicians and dentists in section 2 of the bill shall become effective as of October 12, 1975, the same date on which the Government-wide five-percent comparability pay raise will become effective for VA employees.

Paragraph (2) provides that no agreement for service and special pay, pursuant to the new section 4118 (added to title 38 by section 2(d)(1) of the bill) may be entered into after October 11, 1976.

Subsection (b) provides that the amendments made by the bill (except for the basic and special pay provisions) shall become effective beginning with the first pay period following thirty days after the date of enactment of the bill.

Mr. CRANSTON. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the House.

The amendment was agreed to.

SUSPENSION OF DUTY ON NATURAL GRAPHITE—CONFERENCE REPORT

Mr. LONG. Mr. President, I submit a report of the committee of conference on H.R. 7706, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7706) to suspend the duty on natural graphite until the close of June 30, 1978, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of October 7, 1975, at p. 32076.)

CHILD CARE

Mr. LONG. Effective with the start of this month, the social services amendments enacted last year require child care programs funded under the Social Security Act to meet staffing requirements which will greatly increase the cost of operation for many centers. No additional funding has, however, been made available to meet the increased costs. Thus, the immediate enforcement of these standards would force many child care programs to sharply curtail the number of children cared for.

In the face of this situation, the House of Representatives sent us a bill, H.R. 9803, which would delay the implementation of the standards for 6 months until April 1, 1976. The Senate view was that we would probably know very little more about this problem in 6 months than we know today. Testimony by the Department of Health, Education, and Welfare at a hearing held by the Committee on Finance on October 8, lends weight to this view.

The Senate instead approved a provision for a 1-month delay in enforcing the staffing standards. This brief delay would allow sufficient time for consideration of proposals for dealing with the situation in a more substantive way. One such proposal, which I have introduced with Senator MONDALE as cosponsor, would provide additional funding to enable the States to meet the child care standards we have imposed on them by Federal law.

The Senate amendment to H.R. 7706 included the text of the House bill (H.R. 9803) providing for a 6-month delay together with the Senate provision for a 1-month delay. The House conferees insisted that the House would need more time to complete action on this matter even if the Senate could send them a bill within a month. The conferees therefore agreed to provide a delay of 4 months in enforcing the standards.

The Senate conferees were very reluctant to agree to this long a postponement, but the House conferees saw no possibility that they could complete consideration of a more substantive proposal much quicker than this. They did, however, assure us that if the Senate can send them legislation dealing with the matter, they will act on it prior to the expiration of the 4-month postponement period provided for in the conference agreement.

The Senate amendments to H.R. 7706 also included a provision clarifying the application of the new social services law to the treatment of drug abuse and alcoholism.

One part of this amendment seeks to assure that certain requirements with respect to confidentiality in dealing with drug addicts and alcoholics are observed in operating the social services program. Another part of the amendment would require the rehabilitative process for drug addicts and alcoholics to be considered in its entirety in deciding whether medical care, and in particular the detoxification period, can qualify for social services funding. Without this clarification, the medical care components of rehabilitation might have been considered in isolation and thus run afoul of a prohibition against funding of medical care under the social services program except where it is an integral part of another type of service.

The conference agreement accepts the Senate amendments with respect to drug abuse and alcoholism treatment but limits their applicability to the period ending January 31, 1976. This will prevent any immediate disruption to those programs while allowing the House of Representatives more time to consider the change proposed by the Senate.

I urge the Senate to adopt the conference report.

Mr. CURTIS. Mr. President, I join the distinguished chairman of our Committee on Finance in recommending approval of the conference report on H.R. 7706.

Since there was no disagreement between the Senate and the House with respect to the provisions of the bill suspending the duty on natural graphite, the conference was devoted to the Senate amendments concerning title XX of the Social Security Act.

With respect to the title XX day care center staffing requirements, the conference agreed to a 4-month suspension of these requirements to January 31, 1976. This will hopefully give us sufficient time to develop an effective solution to the problem. In the interim, however, approval of the conference report is necessary to prevent loss of Federal funds by those States not now in compliance with the staffing standards.

On the Senate amendments to the alcoholic and drug abuse provisions of title XX, the conference agreed to the Senate provisions on a temporary basis to January 31, 1976. This will give the House an opportunity to study these provisions in greater detail.

I think it is clear from this brief summary of the conference report, Mr. President, that our chairman has again preserved the interest of the Senate and I am pleased to join in recommending approval of the conference report.

Mr. HATHAWAY. Mr. President, the House-Senate conference committee has completed its work on amendments to title XX affecting day care staffing regulations and alcohol and drug abuse treatment programs.

With regard to day care, the House had voted to postpone the operation of certain staffing regulations for 6 months. The Senate had voted to postpone them for 1 month. In both cases, the purpose was to take a closer look at the law in this area and determine whether additional legislation is needed, either to modify the regulations or to provide additional funding to enable day care facilities to meet them. The conference committee agreed to a postponement until the end of January 1976.

With regard to the alcoholism and drug abuse amendments, which were offered in the Senate by the Finance Committee at my suggestion, the conference committee agreed to accept them also on a temporary basis, to expire at the end of January 1976. They did this for two reasons:

First, to examine the operation of the amendments to ensure that they would not be abused to turn title XX into a medical rather than a social service program.

Second, to determine whether such amendments would in fact be useful all across the country, or whether their beneficial effects will be felt in just one or two, or in a small handful of States.

I feel certain that the answers to these two questions over the next four months will prove the necessity for these amendments. However, state title XX agencies and drug and alcohol treatment programs should bear in mind that the onus is now on them to demonstrate the utility of and need for the changes.

Mr. President, I happen to believe now, as I did when I first offered these amendments last week, that they are required in order to better coordinate title XX funding of the alcoholism and drug abuse rehabilitative process with funding of such treatment by other sources—including the National Institutes of Alcoholism and Drug Abuse, under the jurisdiction of the Labor and Public Welfare committee in the Senate and the Interstate and Foreign Commerce Committee in the House.

In the absence of these amendments, current HEW regulations and procedures for title XX would have broader effects than just the title XX delivery process and would lead to disruptions in the overall delivery process for these programs, regardless of the source of their funding. The amendments can be briefly described as follows:

CONFIDENTIALITY

This amendment simply adds in title XX a cross reference to the confidentiality provisions of current alcoholism and drug abuse treatment law. Those provisions specifically provide that the identity, diagnosis, prognosis, and treatment of persons in these programs shall be kept confidential unless a person gives his or her written consent to the contrary. There are certain carefully delineated exceptions, such as in the case of a bona fide medical emergency or for purely statistical purposes. This cross reference is necessary because of the stigma that still attaches to such treatment, which would cause many persons to fail or refuse to seek needed treatment—and therefore to continue their state of dependency—if they thought that their employer or others in their community would find out.

THE REHABILITATIVE PROCESS

The second and third amendments are designed to insure that the title XX funding process takes into account the unique nature of the rehabilitative process by which persons end their dependency on alcohol and drugs. They reflect problems which have risen in a number of States and which—again—have potential disruptive effects on other—nontitle XX—authorizations of funding for alcohol and drug abuse programs.

The first of these latter two amendments ensures that the requirement by regulation that no moneys be expended under title XX for services in which more than 40 percent of the funds go for room and board, or more than 25 percent go for medical payments, be more realistic with respect to alcohol and drug abuse treatment, by specifying that the entire rehabilitative process be considered as a "service" for the purpose of making the 40 percent or 25 percent determinations.

The second specifically exempts a short initial detoxification period—of up to 7 days—from the medical and room and board limitations and from the prohibition against the provision of services in a hospital or intermediate care facility, if such detoxification is integral to the further provision of services for which the person would be eligible under title XX. This amendment takes into account the fact that no rehabilitation can occur for many alcohol or drug dependent individuals—under title XX or otherwise—without an initial detoxification period. Such a period, although strictly limited in duration, could not be offered to a title XX-funded individual under current regulations, since few—if any—detoxification centers would meet the title XX requirements as to medical and room/board cost percentages. Such an exclusion would have the effect of denying rehabilitation entirely to persons for whom other detoxification funding could not be found.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

THE 1973 SSI AMENDMENTS

Mr. LONG. Mr. President, a few days ago an article appeared in the Washington Star as one of a series of articles on the supplemental security income program. This article dealt with the 1973 amendments to the SSI program. I am concerned that the article may have given a misleading impression of the circumstances leading to the 1973 legislation.

I have received a letter from three State welfare directors who were very much involved with the legislation at that time and who are thoroughly familiar with how it developed.

I ask unanimous consent that this letter appear at this place in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 8, 1975.

HON. RUSSELL B. LONG,
Chairman, Senate Committee on Finance, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On October 6, 1975, the *Washington Star* printed an article by Mr. John Fialka concerning legislative changes in the Supplemental Security Income (SSI) program which were enacted in July 1973. We believe a fuller description of the legislative context is needed in order to understand why those changes were made.

In 1972, when the SSI legislation was under consideration, the Department of Health, Education, and Welfare estimated that most recipients of aid to the aged, blind and disabled would get increased benefits under SSI and that State supplementation would take care of the remaining ones to assure that no one would have reduced benefits. It was on this basis that the legislation was enacted.

In general, the States might have been willing to make this estimate valid if they could have been sure that the cost to them would not be excessive and if they had received adequate information from HEW with which to plan for necessary supplementation.

However, as of early 1973, when the legislatures of the States had to consider any program of State supplementation, many States found it impossible to construct such a program. The Department of HEW had not yet decided how they would integrate programs of State supplementation into the SSI program, and they were unable to supply estimates of the number of persons eligible which could serve as the basis for reliable cost estimates for a supplementation program.

As a result, many States either did not adopt a supplementation program or adopted one that would leave many current recipients with reductions in income.

By June 1973, a number of State legislatures had already adjourned, and it was clear that in the absence of further Federal legislation many thousands of aged, blind, and disabled persons in virtually all States would be faced with possible reductions in incomes; in many instances these reductions in income would be substantial.

The State Welfare Administrators were the persons closest to this problem, having been responsible for the income maintenance programs for the needy aged, blind, and disabled for many years and having seen at first hand the process of turning this responsibility over to the Department. As a group, the State administrators were doubtful about the ability of HEW to take over the administration of the program effectively by January 1974 and were certain that thousands of aged, blind, and disabled would suffer income cuts in any case. The official body representing the Welfare Administrators of all States therefore adopted a resolution urging Congress to delay the start of Federal administration for one year. The resolution requested that States be required to provide assistance during that year at levels at least as high as the minimum Federal standards established by the SSI program. However, since the ongoing assistance programs would otherwise remain unchanged, no one on the rolls would experience a sudden and unexpected cut in income in January 1974.

In view of these developments, the Committee on Finance asked HEW Secretary Caspar W. Weinberger to testify at a hearing on June 19, 1973. He was asked to give the Administration's views on two alternative approaches which had been suggested: (1) a one-year delay in Federal administration as outlined in the resolution from the State welfare administrators, or (2) a "grandfather clause" approach under which Federal administration would go into effect on January 1, 1974, but with an assurance that no one already on the rolls as of December, 1973 would suffer a reduction in income as a result of the new SSI program. The Secretary rejected both proposals, and in particular strongly objected to any delay in Federal implementation of the SSI program because of the amount of work which had already gone into preparing for the January 1974 effective date.

In considering the evidence which had been offered at the hearing, the Committee on Finance concluded by accepting the view that the States, without further Federal legislation, would be unable in many cases to assure that thousands of aged, blind and disabled persons who did not suffer a cutback when the SSI program went into operation. In view of the Administration's strong objection to any federal of Federal administration, however, the Committee chose the alternative of a "grandfather clause" to assure no cutback to those on the State rolls in December 1973. To provide the minimum possible disruption to SSI planning, this provision was designed in such a way that it did not require the Department of Health, Education and Welfare to compute entitlement under the 50 State programs but instead required each State to certify to the Department the guarantee level for those on the rolls in December 1973. Even so, it was recognized that this would increase the administrative burden on the Department. The Committee believed, however, that it was responsible to address this situation in July 1973 than to wait until January 1974 after thousands of the aged, blind and disabled had already suffered a cutback in income. The Committee's judgment in this matter was accepted by the Congress and was signed into law by the President.

Sincerely,

GARLAND BONIN,
Assistant Commissioner for Federal Programs, La. Health & Human Resources Department.

L. E. RADER,
Director of Institutions, Social & Rehabilitation Services State of Oklahoma.

RAYMOND W. VOWELL,
Commissioner State Department of Public Welfare, Austin, Tex.

Mr. LONG. It was the opinion expressed by State welfare administrators to me that we were in for the kind of administrative fiasco which has resulted from the Department's inability to administer SSI and would have resulted even if there had been no July 1973 amendments.

Apparently some persons in the Department have given the impression that the Finance Committee amendment required the Department to separately compute the entitlement of each person who would receive more than the usual SSI allotment. As a practical matter, all the Department would have had to do was to proceed on the assumption that State records were correct until demonstrated otherwise, and mail a check to those beneficiaries in the amount they had been receiving under the State program if that amount exceeded the Federal SSI standard. With the tens of thousands of employees in the Department of HEW working on this matter, one would have thought they could have done this job even without computers. They could then have systematically reviewed the "grandfather clause" cases over a period of time and without the chaos which they suggest existed.

At no time did the Department admit that it would not be able to do the administrative chore involved. In fact they insisted quite the contrary.

It may well be that the reason the Department was unwilling to admit they were in for an administrative nightmare was the overwhelming zeal, typical of bureaucrats, to expand their domain and increase the amount of funds under their control.

SENATE RESOLUTION 284—EXPRESSING THE GRATITUDE AND BEST WISHES OF THE SENATE TO LESTER S. JAYSON

Mr. HUMPHREY. Mr. President, I ask unanimous consent to proceed with a resolution on behalf of myself and Senator GRIFFIN honoring Lester S. Jayson for his record of distinguished service in the Congressional Research Service. Senator MANSFIELD is also a sponsor, and I am sure Senator HUGH SCOTT of Pennsylvania and Senator ROBERT C. BYRD of West Virginia.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 284) expressing the gratitude and best wishes of the Senate to Lester S. Jayson.

The PRESIDING OFFICER. Is there objection to the consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 284) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 284

Whereas, Lester S. Jayson since 1960 effectively served the Congress in the Congressional Research Service of the Library of Congress for the last 9 years as its Director; and

Whereas, he diligently has worked as directed by the Legislative Reorganization Act of 1970 to expand and improve CRS as an organization; and

Whereas, he significantly has strengthened CRS policy analysis for the Congress; and

Whereas, he has guided CRS in providing modern information support for Congress through use of automated systems; and

Whereas, he has preserved the objective, nonpartisan and nonadvocate quality of CRS service to Congress; and

Whereas, said Lester S. Jayson has resigned his long and distinguished career in Federal public service;

Resolved, That the Senate expresses its gratitude and appreciation to Lester S. Jayson for the long and outstanding service rendered by him to the Members and committees of the Senate in his capacity as a Senior specialist, Deputy Director, and Director of the Congressional Research Service, Library of Congress, and expresses its best wishes to him upon his retirement as the Director of the Congressional Research Service.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Lester S. Jayson.

SENATE RESOLUTION 283—CONGRATULATING THE 1975 WORLD SERIES VICTORS

Mr. KENNEDY. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

Whereas, the Boston Red Sox have won the American League pennant by defeating the world champion Oakland Athletics with three straight victories, and

Whereas, the Cincinnati Reds have also won the National League pennant, and

Whereas, the World Series will commence this weekend to determine the world champion of baseball, be it

Resolved, That the Senate of the United States recognize the quality and excellence of both of these great teams, wishes both teams well and hopes that the home team be victorious in each game of the World Series.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

Mr. HUGH SCOTT. I take it is out of order to offer an amendment substituting Pittsburgh for one of these teams? [Laughter.]

Mr. KENNEDY. It is quite out of order.

Mr. HUGH SCOTT. Since it is out of order, I join in the distinguished Senator's resolution.

Mr. KENNEDY. I thank the Senator.

Mr. GLENN. Mr. President, will the Senator yield to me for a brief comment?

Mr. KENNEDY. For a brief comment.

Mr. GLENN. Mr. President, if the first game gets to be played in Boston, I would not want to let this opportunity go by to inform the Senate that, on the other end of the line, with the possible last game being played in Boston, I have already placed some bets of the winning of four straight by Cincinnati, and I wish the record would show that.

The PRESIDING OFFICER. Without objection, the record will so show.

Mr. KENNEDY. I sincerely hope that my distinguished colleague has not bet his life savings.

Mr. FORD. I would like to add one comment. When you are hot, you are red hot. [Laughter.]

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 283) was agreed to.

The preamble was agreed to.

Mr. MANSFIELD. Mr. President, how do you differentiate between the Boston Red Sox and the Cincinnati Reds?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order.

BOB HOPE—AMERICAN PATRIOT

Mr. SYMINGTON. Mr. President, I send a resolution to the desk and I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The second assistant legislative clerk read as follows:

A resolution (S. Res. 282) citing Bob Hope—American Patriot.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. SYMINGTON. I shall be brief, Mr. President. On October 24, the National Broadcasting System will televise a 2-hour special in honor of Bob Hope's 25th anniversary in television.

Accordingly, Representative JACK KEMP and I have submitted this resolution in the respective houses.

It is a fitting tribute in itself that I need not elaborate on this man's career. His impact on happiness in this troubled world is legendary to everyone in this body as well as to generations of millions of Americans.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas Bob Hope has devoted his lifelong career to bringing joy and laughter to generations of Americans, and

Whereas his humor has gladdened the hearts of countless audiences of stage, screen, radio and television, and

Whereas—far from home and loved ones—he has journeyed millions of miles to carry cheer to the members of our Country's Armed Forces in times of war and peace, and

Whereas he is the worthy recipient of more decorations and honors than any civilian in United States history, and

Whereas—as the Diplomat of Comedy—he has brought great credit to the Government of the United States and its people,

Therefore, be it . . .

Resolved by the Senate of the United States of America assembled, That in the name of the people, the Congress, with deepest gratitude, cites Bob Hope for Distinguished and Meritorious service to his Nation and to the cause of freedom upon the occasion of his 25th Anniversary in Television.

THE BAILOUT OF NEW YORK CITY

Mr. HARRY F. BYRD, JR. Mr. President, I want to again express strong opposition to a Federal bailout of New York City. At the same time, I want to commend President Ford for standing firm in opposition to a bailout. This takes a lot of courage on his part. The combined groups which are attempting to force the Federal Government to underwrite or to guarantee New York bonds is a powerful group. The New York labor unions are exercising every conceivable pressure for a bailout. The bankers are putting on every conceivable pressure for a bailout, and rightly they should. They own a lot of bonds themselves.

The New York politicians, who got the city into this mess, either the same ones or those like them, are demanding a bailout and, undoubtedly, the question will come to Congress for decision.

Mr. President, I think it would be tragic for the future of this country if the Federal Government involves itself into the financial affairs of the cities of our Nation. It will be tragic for the taxpayers of the country and it will be tragic for the system of local self-government.

The argument is being made that if New York City fails to pay interest on its bonds, namely, defaults on its bonds, it will hurt other municipal and State bonds throughout the Nation, and it probably will.

If the Federal Government bails out New York City it will also hurt the municipal and other tax-free bonds throughout the Nation.

I think what has happened in New York should well dramatize what can happen throughout the country in any community where the political leaders give in to every demand of every pressure group. It should dramatize the condition that faces the Federal Government. New York City is in no better shape or no worse shape, I should say, than is the Federal Government. The only difference is the Federal Government can print money and New York City cannot.

I realize there will be a great demand on Congress to have the Federal Government guarantee these bonds, and I hope that those who make that demand will come into the Senate and submit to the Senate and submit to Congress the holdings of the New York banks of these bonds. Let us get the record straight. Let us find out whom we are bailing out and to what extent.

It is fine for the New York bankers to come down here and make the demand on the Federal Government because they are getting benefit from it. They do not want the interest to be defaulted and, naturally, they do not, but they bought those bonds. There was no guarantee that they would not go into default. They got a high rate of return, a high rate of return on those, tax-free and, I might

say, frankly, that my heart does not bleed for the New York banks.

As far as I am concerned, I am going to fight it down to the last ditch and do whatever one Senator can do to attempt to defeat any legislation which would have the Federal Government, the people of Virginia, bail out a city which has a per capita cost of government three times greater than the average of the large cities of our Nation.

Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Will the Senator withdraw that?

Mr. HARRY F. BYRD, JR. I withdraw that.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

FOUNDING OF THE REPUBLIC OF CHINA

Mr. GOLDWATER. Mr. President, I rise to remind my colleagues that tomorrow is a day of great pride and celebration in the Republic of China, our valued and steadfast ally. Tomorrow is National Day, the commemoration of the 64th anniversary of the founding of the Republic of China on October 10 in 1911.

Mr. President, we Americans share a special interest in this occasion because of the many similarities in the causes and aspirations of the Chinese Revolution of 1911 with our own struggle for independence and self-government. We know that the great intellectual and activist leader of the Chinese Revolution was Dr. Sun Yat-sen, born in the district of Hsiang-shan in Kwangtung Province of China, but who grew up among the overseas Chinese in Hawaii and studied in foreign schools in the islands and in Canton and Hong Kong. For contemporary Americans, as well as for Americans of the turn of the century, Dr. Sun's rise to leadership has a personal significance. We know he was a Chinese leader who spoke English and knew his way around San Francisco and New York. Dr. Sun was the leading representative of the generation in China that turned to us in the West for help, inspiration, and models, not once but many times.

From us he got Christian principles, doctrines of democracy and individualism, and techniques of science and industry. We know that as early as 1883, Dr. Sun had gained a reputation for talking enthusiastically about his hero, George Washington. We know that Dr. Sun wrote that Abraham Lincoln's "of the people, by the people, for the people" forshadowed the spirit of his own three famous principles, of national consciousness, democracy and economic and social well-being for the people.

We also know that Dr. Sun extracted the best of Western practices as the model of his goals for China. He believed and taught that the source of Western success was not in its warships and guns, but in our principles of the maximum development and use of individual human talents, the wise use of land and resources, the rule of law, and the unrestricted flow of commodities. Dr. Sun stressed the importance of education to men, women, and children in order to promote the flowering of human talents.

We know that the major goals of Dr. Sun's revolution were a modern, independent, and democratic China. His cause against the imperial rule of the Manchus, who he called the offspring of northeast nomads who had suppressed the Chinese, is akin to our own revolution against the British monarchy. While we Americans cannot lay claim to having a 4,000-year-old culture, as the Chinese can, we can take pride in the fact that Dr. Sun sought to replace the imperial prerogatives by emulating the American republican system. In fact, as early as 1894, the constitution of the Hawaiian branch of the organization Dr. Sun formed included the goal of establishing a republican form of government after the model of the American federal system.

Contradicting those who claimed that China was too primitive for republicanism, Dr. Sun argued that the spirit and essence of republicanism could be seen in certain teachings of China's ancient sages. The local institutions of the people also attested to their ability to rule themselves and to promote the general welfare. Were these not the attributes, Dr. Sun contended, of what in modern times is called a Republic? While these village institutions had not attained the perfection of modern Western governments, Dr. Sun believed that they attested to the "naturally endowed democratic ability" of the Chinese people, who have a natural capacity for self-rule.

There would be no constitutional monarchy for Dr. Sun. His revolution was a revolution that crossed the centuries all the way to the newest Western model of a democratic Republic. His revolution, as he explained it at New York in 1904, was based upon the "inalienable rights of life, liberty, and property." He appealed to the people of the United States for our sympathy and support, he stated, "because we intend to model our new government after yours; and above all, because you are the champion of liberty and democracy."

Mr. President, we can rejoice that Dr. Sun and the Chinese people succeeded in their quest for the ending of Imperial rule on the now famous occasion of the "Double Tenth." This is the 10th month, the 10th day, October 10, 1911. Shortly afterward, on January 1, 1912, Dr. Sun Yat-sen, the Father of the Republic, became the first President of the Republic, taking office at Nanking.

Today the revolution begun by Dr. Sun continues, having been extended by Chiang Kai-shek, who acheived the political unification of the country, who had his accomplishments interrupted by the cruel invasion of the Japanese and the subsequent Civil War waged by the Communists, and who eventually succeeded in leaving a great legacy of human rights and modernization in the present Republic of China situated on Taiwan.

Mr. President, I congratulate the Chinese people on the occasion of the founding of their Republic 64 years ago tomorrow, and I share with free Chinese everywhere the hope that the blessings of liberty, democracy, and Chinese heritage, which have been molded together so successfully on Taiwan, will again be restored to the Chinese people on the Mainland, as well as continue to flourish on the Island of Taiwan.

SENATE ACCOMPLISHMENTS—1975

Mr. MANSFIELD. Mr. President, a review of the Senate legislative record during 1975 indicates that considerable progress has been made toward the enactment of measures called for in February by the Democratic majority in Congress to accomplish the national goal of energy sufficiency. I am referring to the comprehensive congressional energy program which is designed to reduce this Nation's dependence on foreign sources of oil, to stimulate domestic production, and to shift to other sources of energy through conservation and technology while keeping prices from skyrocketing. A bill implementing many facets of this program is in Senate-House conference. Other segments of the program have already been enacted or are far along in the legislative process as outlined in the following list:

CONGRESSIONAL PROGRAM FOR ENERGY SUFFICIENCY—STATUS OF MEASURES

1. Personal and Corporate Tax Reduction, Public Law 94–12.
2. Disapproval of Oil Excise Tax, H.R. 1767. Vetoed March 4, 1975.
3. Repeal of Oil Depletion Allowance, Public Law 94–12.
4. Oil Price Control Extension, H.R. 4035 and S. 1849 both vetoed. H.R. 9524 became Public Law 94–99 with extension to November 15, 1975.
5. Strip Mining, H.R. 25. Vetoed. Similar provisions in S. 391, P/S July 31, 1975.
6. Coal Leasing—Strip Mining, S. 391. P/S July 31, 1975.
7. Standby Energy Authorities Act, S. 622. In conference.
8. Appliance Labeling Act, S. 349. P/S; In conference on S. 622.
9. Automobile Fuel Economy, S. 1883. P/S; In conference on S. 622.
10. Strategic Energy Reserves, S. 677. P/S; In conference on S. 622.
11. Mandatory State Conservation Program. Title II of S. 622; In conference.
12. National Petroleum Reserves (Naval & Interior), H.R. 49. In conference.
13. Coal Conversion Act Extension, vetoed in H.R. 1767, H.R. 4035, and S. 1869. In conference on S. 622.
14. Mandatory Coal Conversion, S. 1777. Hearings held.
15. Coastal Zone Amendments for Energy Facilities Siting, S. 586. P/S July 16, 1975; H.R. 3981 mark up underway.
16. Outer Continental Shelf Drilling, S. 521. P/S July 30, 1975.
17. Emergency Natural Gas, S. 2310. Senate debating.
18. Natural Gas Reregulation, S. 692. On Senate calendar, may be included in S. 2310.
19. ERDA Authorization, H.R. 3474. In conference.
20. National Energy Production Board, S. 740. Mark up underway.
21. Industrial Conservation Act, S. 1908. Mark up underway.
22. Energy Taxes, H.R. 6860. Mark up underway.

Progress toward enactment of measures called for in the congressional energy program has been made notwithstanding the President's zeal to veto. In less than 14 months, President Ford has vetoed 39 bills—almost as many as the previous President in 5½ years. Although Congress has overriden only 3 of the 12 vetoes this session, we have, with commendable persistence, proceeded to pass comparable bills which have become law in many instances. The following status report on these 12 vetoed bills illustrates this point:

STATUS OF PRESIDENTIAL VETOES

(94TH CONGRESS)

1. H.R. 1767, Oil Import Fees, President's authority to impose. Vetoed March 4. Referred to Ways and Means. Relevant provisions contained in H.R. 4035 which was also vetoed.

2. H.R. 4296, Agricultural Price Supports. Vetoed May 1. House sustained veto on May 13. (Secretary of Agriculture hold quarterly oversight meetings with Agriculture Committees on subject.)

3. H.R. 25, Strip Mining. Vetoed May 20. House sustained veto June 10. Similar provisions passed Senate in S. 391 on July 31.

4. H.R. 5357, Tourist Promotion. Vetoed May 28. Referred to House Interstate and Foreign Commerce Committee. Similar measure, S. 2003, became Public Law 94–55.

5. H.R. 4481, Emergency Employment Appropriations. Vetoed May 28. House sustained June 4. Similar measure, House Joint Resolution 492 became Public Law 94–36.

6. H.R. 4485. Emergency Middle-Income Housing. Vetoed June 24. House sustained June 25. Similar measure, H.R. 5398, became Public Law 94–50.

7. H.R. 4035, Oil Policy. Vetoed July 21. Related provision in S. 622 which is in conference.

8. H.R. 5901, Education Appropriations. Vetoed July 25. House overrode September 9. Senate overrode September 10. Became Public Law 94–94.

9. S. 66, Health Services–Nurse Training. Vetoed July 26. Senate overrode July 26. House overrode July 29. Became Public Law 94–63.

10. S. 1849, Oil Price Controls. Vetoed September 9. Senate sustained September 10. H.R. 9524 extending controls to November 15 became Public Law 94–99.

11. H.R. 9497, Tobacco Price Supports. Vetoed September 30. Referred to House Agriculture Committee.

12. H.R. 4222, School Lunch Program. Vetoed October 3. House and Senate overrode October 7. Became Public Law 94–105.

A more detailed summary of legislative achievements of the Senate has been prepared by the staff on the Democratic Policy Committee. I ask unanimous consent that this report and index be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE LEGISLATIVE ACTIVITY INDEX

(94th Congress—1st Session)

(By Senate Democratic Policy Committee)

AGRICULTURE

African/Brazilian Honeybee Control (S. 18).
Agricultural Pest Control (S. 1617).
DES (S. 963).
Disaster Loan Program (S. 555).
Food Stamp Increase (H.R. 1589).
Food Stamp Program Study (S. Res. 58).
Food Stamps—SSI Recipient Eligibility (S. 1662).
Forest Pest Control (S. 441).
Forestry Research (S. 1307), (S. 1529).
Grain Standards (S.J. Res. 88).
Horse Protection (S. 811).
Insecticides (H.R. 6387), (S. 2375).
Livestock Credit (S. 1236).
Milk Price Supports (S.J. Res. 121).
Peanut Distribution (S. Res. 101).
Plum Island Animal Disease Center (S. Res. 190).
Potato Stocks (S. Res. 122).
*Price Supports (H.R. 4296).
*Tobacco Price Supports (H.R. 9497).
Watershed Projects (S. 1230).
Wheat Referendum (S. 435).
White Corn (S. Res. 155).

APPROPRIATIONS

1975:
Continuing (H.J. Res. 219).
*Emergency Employment (H.R. 4481).
Foreign Assistance (H.R. 4592).
Summer Youth Employment and Recreation (H.J. Res. 492).
Supplemental (H.J. Res. 210), (H.R. 5899).
Veterans' Supplemental (H.J. Res. 375).
Vietnamese Refugee Aid (H.R. 6894).
1976 and Transition Period:
Agriculture (H.R. 8561).
Continuing (H.J. Res. 499).
Education (H.R. 5901).
HUD (H.R. 8070).
Labor-HEW (H.R. 8069).
Legislative (H.R. 6950).
State-Justice-Commerce (H.R. 8121).
Transportation (H.R. 8365).
Treasury-Postal Service (H.R. 8597).

ATOMIC ENERGY

International Agreements:
Atomic Energy Cooperation Agreement With Israel (S. Con. Res. 15).
Enriched Uranium Distribution to EURATOM (S. Con. Res. 14).
Enriched Uranium Distribution to IAEA (S. Con. Res. 13).
Nuclear Regulatory Commission Authorizations (S. 994) (S. 1716).

BUDGET

Deferrals—1975:
Energy Research and Development Administration (S. Res. 32), (S. Res. 75), (S. Res. 76), (S. Res. 77), (S. Res. 78), (S. Res. 79), (S. Res. 80).
HUD—Comprehensive Planning Grants (S. Res. 23).
Transportation—Highway Funds (S. Res. 69).
Youth Conservation Corps (S. Res. 205).
Deferrals—1976:
Emergency Energy Conservation Services (S. Res. 267).
Rescissions—1975:
Agriculture, Commerce, Consumer Product Safety, DOD, HEW, Labor (H.R. 4075).
Agriculture, Commerce, DOD, Executive Office, General Services, Justice, HEW, State, Treasury (H.R. 3260).
HEW—Health and Medical Service Programs (H.R. 6573).
HUD—Homeownership Assistance (S. Res. 61).
Rescissions—1976:
Agriculture, HEW, Interior, Transportation, Treasury (H.R. 9600).
Resolutions:
First Budget Resolution (H. Con. Res. 218).

CONGRESS

August Recess (S. Con. Res. 54).
Congressional Paycheck Disbursement (H.R. 7405).
Guam and Virgin Islands Delegate Allowance (H.R. 4269).
Joint Committee on the Bicentennial (S. Con. Res. 44).
Supreme Court Chamber (S. Res. 164).

CONSUMER AFFAIRS

Consumer Fraud (S. 670).
Consumer Product Safety (S. 644).
Consumer Protection (S. 200).
Motor Vehicle Information and Cost Savings (S. 1518).

CRIME-JUDICIARY

Bilingual Court Proceedings (S. 565).
Federal Rules of Criminal Procedure (H.R. 6799).
Federal Rules of Evidence (S. 1549).
Florida Judicial District (S. 723).
Judgeships for the U.S. Court of Appeals (S. 286).
Jurors Fees (S. 539).
Parole Commission (H.R. 5727).
Pyramid Sales (S. 1509).
Robert E. Lee (S.J. Res. 23).
Three-Judge Courts (S. 537).

DEFENSE

Coast Guard Authorization (H.R. 5217).
Defense Production (S. 1537).
Defense Production—Commission on Productivity and Work Quality (S.J. Res. 94) (H.J. Res. 672).
Diego Garcia (S. Res. 160).
Military Construction Authorization (S. 1247).
Military Procurement Authorization (H.R. 6674).
Naval Museum (S. Con. Res. 9).
Nuclear-Trained Naval Officers Pay Bonus Extension (S. 2114).
Officer Graduate School Appointees (S. 1767).

DISTRICT OF COLUMBIA

Southeastern University (S. 611).

ECONOMY-FINANCE

Appalachian Regional Development (H.R. 4073).
Bank Acquisitions (S. 2209).
Commodity Futures (H.J. Res. 335).
Council on International Economic Policy (S.J. Res. 97) (H.R. 5884).
Council on Wage and Price Stability (S. 409).
Duty Suspensions:
Dyeing and Tanning Materials (H.R. 7715).
Graphite—Child Care Staffing—Alcoholism and Narcotic Treatment (H.R. 7706).
Hopper Cars (H.R. 7731).
Istle Fiber—Child Support Funding (H.R. 7709).
Platinum and Carbon (H.R. 7728).
Watches—Child Support Funding (H.R. 7710).
Zinc—Cooper (H.R. 7716).
Lower Interest Rates (H. Con. Res. 133).
National Commission on Supplies and Shortages (S.J. Res. 27, S.J. Res. 48, H.J. Res. 560).
National Insurance Development Program (H.R. 4075).
Public Debt Limit Extensions (H.R. 2634, H.R. 8030).
Repatriated U.S. Citizens—SSI Recipient Food Stamp Eligibility (H.R. 6698).
Savings and Loan Associations (S.J. Res. 102).
Securities Acts Amendments (S. 249).
Social Security—Medicaid (H.R. 8109).
Stock Transfer Taxes (S. 2136).
Tax Rebate—State Taxation (S. Res. 158).
Tax Reduction (H.R. 2166).

EDUCATION

College Work-Study Program Funds (H.R. 4221).
Handicapped Children (S. 6).
Lister Hill Scholarship (S. 1191).

ELECTIONS

Federal Election Commission (S. 1434).
Federal Election Commission Regulations (S. Res. 275).
Overseas Citizens Voting Rights (S. 95).
Voting Rights (H.R. 6219).

EMPLOYMENT

Public Works Employment (H.R. 5247).
Railroad Improvement and Employment (S. 1730).
Unemployment Compensation (H.R. 6900).
Virgin Islands Unemployment Compensation Funds—Railroad Retirement (H.R. 9091).

Coastal Zone Management (S. 586).
Automobile Fuel Economy (S. 1883).
Coal Leasing—Strip Mining (S. 391).
*Emergency Petroleum Allocation (S. 1849), (H.R. 9524).
Energy Labeling and Disclosure (S. 349).
Energy Supply—Clean Air (S. 2337).
ERDA Authorization (H.R. 3474).
International Petroleum Exposition (S.J. Res. 59).
Naval Petroleum and Strategic Energy Reserves (H.R. 49).
*Oil Import Fees (H.R. 1767).
*Oil Pricing (H.R. 4035).
Oil Shale Revenues (S. 834).
Outer Continental Shelf Management (S. 521).
Petroleum Products Fair Marketing (S. 323).
Standby Energy Authority (S. 622).
Strategic Energy Reserves (S. 677).
*Strip Mining (H.R. 25).

ENVIRONMENT

Council on Environmental Quality—Environmental Policy (H.R. 6054).
Environmental Impact Statements (H.R. 3130).
National Advisory Committee on Oceans and Atmosphere (H.R. 5447).
Ocean Dumping (H.R. 5701).
Scrimshaw Art Preservation (S. 229).

GENERAL GOVERNMENT

Alaskan Natives (S. 1469).
American Legion Badges—Patent Renewals:
American Legion (S. 720).
American Legion Auxiliary (S. 721).
Sons of American Legion (S. 719).
Assistant Secretary of Commerce (S. 1622).
Attorney General's Salary (S. 58).
Barrier-Free Environment for Disabled (S. Con. Res. 11).
Bikini Atoll (H.R. 5158).
F.B.I. Director, Ten-Year Term for (S. 1172).
Federal Metal and Nonmetalic Mine Safety Board Abolishment (S. 1774).
General Federation of Women's Clubs (S. 240).
GPO Employees (S. 2264).
GSA Leases (S. 1260).
John F. Kennedy Center Authorization (H.R. 6151).
NASA Authorization (H.R. 4700).
National Arboretum (S. 1649).
National Center for Productivity and Quality of Working Life (S. 2195).
National Guard Technicians' Retirement (S. 584).
National Portrait Gallery (S. 1657).
National Science Foundation Authorization (H.R. 4723).
National Security Council (S. 2350).
Nixon Tapes (S. Res. 244).
Patents (S. 24).
Public Buildings (S. 865).
Small Business Act Amendments (S. 1839).
Smithsonian Institution Museum Support Facilities (S. 907).
Smithsonian Institution Site (H.R. 5327).
Standard Reference Data Program (H.R. 37).
*Tourism Promotion (H.R. 5357), (S. 2003).
Trust Territory of the Pacific (S. 326).
War Risk Insurance (H.R. 8564).

GOVERNMENT EMPLOYEES

Cost of Living Increase—Postal Service OSHA Compliance (H.R. 2559).
Federal Employees Pay Increase (S. Res. 239).
Part-Time Government Employees (S. 792).
Travel Expenses (S. 172).

HEALTH

Communicable Disease Control—Consumer Health Education (S. 1466).
Developmentally Disabled Persons Assistance (H.R. 4005).
Drug Abuse Office and Treatment (S. 2017).
*Health Services—Nurse Training (S. 66).
Medical Device Safety (S. 510).
Older Americans (H.R. 3922).
School Lunch and Child Nutrition Program (S. 1310).
*School Lunch Program (H.R. 4222).
Supplemental Food Programs (H.R. 7136).

HOUSING

Emergency Housing (H.R. 5398).
*Emergency Middle-Income Housing (H.R. 4485).
Home Mortgage Disclosure (S. 1281).
Mobile-Home Loans (S. 848).
Real Estate Settlement Procedures (S. 2327).
Variable Interest Rate Mortgages (S. Con. Res. 45).

INDIANS

American Indian Policy Review Commission (S. 2073).
Indian Claims Commission (H.R. 3979).
Indian Health Care (S. 522).
Klamath Indian Land—Colonial Williamsburg (H.R. 83).
Pueblo of Laguna (S. 557).
Pueblo Tribe, New Mexico (S. 217).
Submarginal Lands (S. 1327).

INTERNATIONAL

Arts and Artifacts Indemnity (S. 1800).
Cambodia—Food Aid (S. Res. 94).
Israel (S. Res. 214).
Japan-U.S. Friendship Trust Fund (S. 824).
Middle East Dispute (S. Res. 119).
Nuclear Non-Proliferation (S. Res. 146).
Peace Crops Authorization (H.R. 6334).
Romania—Most Favored Nation Status (S. Res. 219) (S. Con. Res. 35).
Sinai Agreement (H.J. Res. 683).
Treaties:
International Office of Epizootics (Ex. M. 93d–2d).
State Department Authorization (S. 1517).
Turkey—Military Assistance (S. 846).
Turkey—Military Assistance; Board for International Broadcasting (S. 23).
United Nations Peacekeeping Forces in Middle East (S. 818).
United States—Soviet Trade (S. Res. 269).
Vietnam and Cambodia—Humanitarian Assistance (S. 1696).
Vietnam Assistance and Evacuation (H.R. 1484).
Vietnam Peace Negotiations (S. Res. 133).
Vietnamese Refugee Aid Authorization (H.R. 6755).
Vietnamese Refugees Welcome (S. Res. 148).
World Food Conference (S. Con. Res. 19).

MEMORIALS, TRIBUTES, AND MEDALS

Aleksandr I. Solzhenitsyn (S.J. Res. 36).
American Revolution Bicenntenial Commemorative Medals (S. 371).
Apollo-Soyuz Test Project (S. Res. 222).
Armed Forces Bicentennial Medals (H.R. 5708).
Bess Truman's Birthday (S. Res. 65).
Boy Scouts of America (S. Con. Res. 6).
Emperor and Empress of Japan (H. Con. Res. 402).
Girl Scouts of America (S. Con. Res. 22).
International Ladies Garment Workers Union (S. Res. 194).
John C. Kluczynskie Federal Building (H.R. 4241).
King Faisal, Death of (S. Res. 120).
Martin Luther King (S. Res. 14).
Rabbai Menachem Schneerson (S. Res. 22).
Roy Wilkins (S. Res. 35).
Senator Morse's Home (S. Res. 266).
Tom Steed Reservoir (S. 1531).
U.S. Flag Display (S.J. Res. 98).
Vietnam Veterans (S. Res. 171).

NATURAL RESOURCES—NATIONAL HISTORIC SITES

American Falls Dam Replacement (S. 1152).
Assateague Island National Seashore (S. 82).
Franklin D. Roosevelt National Historic Site (H.R. 2808).
Grand Canyon National Park (H.R. 4109).
Guadalupe Mountains National Park (S. 313).
Hells Canyon National Recreation Area (S. 322).
Indian Trails (S. 1123).
Indoor Recreation Facilities (S. 288).
Klondike Gold Rush National Historical Park (S. 98).
Polecat Bench Area, Pick-Sloan Missouri Basin Programs (S. 151).
Reclamation Loan Projects (H.R. 543).
River Basin Monetary Authorizations (S. 2270).
Saline Water Authorization (H.R. 3109).
Touchet Division, Walla Walla Project (S. 1922).
Volunteers in the Parks (S. 896).
Water Resources Planning (H.R. 5952).
Wild and Scenic Rivers Studies:
Allegheny River (S. 1004).
Housatonic River (S. 10).
Wilderness Areas:
Bristol Cliffs Wilderness (S. 2308).
Eagles Nest Wilderness (S. 267).
Flat Tops Wilderness (S. 267).
Sheep Mountain Wilderness (S. 74).
Wilderness Areas Studies:
Snow Mountain DeFacto Wilderness, California (S. 1391).

NOMINATIONS (ACTION BY ROLLCALL VOTE)

Alexander P. Butterfield to Retired List U.S.A.F. (S. 182).
Stanley K. Hathaway to be Secretary of Interior.
Carla Anderson Hills to be Secretary of HUD.
Thomas J. Meskill to be U.S. Circuit Judge.
Earl J. Silbert to be U.S. Attorney for D.C.

PROCLAMATIONS

American Business Day (S.J. Res. 15).
American Institute of Banking Week (S.J. Res. 58).
Buchenwald Concentration Camp (S.J. Res. 56).
Car Care Month (S.J. Res. 57).
Child Abuse Awareness Week (S. Res. 43).
Earth Day (H.J. Res. 258).
Energy Conservation Month (S. Res. 59).
Good Neighbor Day (S.J. Res. 128).
Haym Salomon Day (S.J. Res. 99).
Historic Preservation Week (H.J. Res. 242).
Hobby Month (S.J. Res. 84).
Honor America (S.J. Res. 92).
Hunting and Fishing Day (S.J. Res. 34).
Indian Day (S.J. Res. 44).
Japan-U.S. Friendship Days (S. Res. 270).
Music in Our Schoools Day (S.J. Res. 18).
Newspaper Week (S.J. Res. 46).
Newspaper Carrier Day (S.J. Res. 46).
Norwegian-American Day (S. Res. 135).
Saint Elizabeth Seton Day (S.J. Res. 125).
Shut-In Day (S.J. Res. 79).
Ski Week (S.J. Res. 90).
Space Observance (S. Con. Res. 47).
Youth Art Month (S.J. Res. 8).

SENATE

Cloture Rule (S. Res. 4).
Commission on the Operation of the Senate (S. Res. 277).
Committee Expenses (S. Res. 111) (S. Res. 191) (S. Res. 207).
Committee Staffing (S. Res. 60) (S. Res. 182).
Floor Privileges (S. Res. 196).
Government Intelligence (S. Res. 231).
New Hampshire Senate Debate—TV/Radio Coverage (S. Res. 177).
New Hampshire Senate Vacancy (S. Res. 202).
New Hampshire Senate Vacancy—Committee Funding (S. Res. 54).
Select Committee on Intelligence (S. Res. 21) (S. Res. 167) (S. Res. 165) (S. Res. 218).
Senate Photograph (S. Res. 217).
Witness Fees (S. Res. 17).

TRANSPORTATION-COMMUNICATIONS

Airport and Airway Development (S. 1972).
Alaska Highway Right-of-Way (S. 1245).
Amtrak—Penn Central (S. 281).
Amtrak Supplemental Authorization (H.R. 5975).
Cargo Vessel Passengers (H.R. 5045).
Federal-Aid Highway Appropriations (S. Con. Res. 62).
Federal-Aid Highway Projects (H.R. 3786).
Maritime Authorizations (S. 332) (S. 1542).
Railroad Safety—Hazardous Materials Transportation Authorizations (S. 1462).
Railroad Temporary Operating Authority (Rock Island) (S. 917).
Railroad Unemployment and Sickness Benefits (H.R. 8714).
Shrimp Fisheries (H.R. 5709).
Tuna Fisheries (H.R. 5522).
Urban Mass Transportation (S. 662).

VETERANS

Disability Compensation and Survivors' Benefits (H.R. 7767).
Veterans' Day (S. 331).
Veterans' Physician Pay (S. 1711).

SENATE LEGISLATIVE ACTIVITY

(94th Congress, 1st Session)

(By Senate Democratic Policy Committee)

Days in session	142
Hours in session	903
Total measures passed	597
Private laws	18
Public laws	105
Treaties	1
Confirmations	53, 071
Record votes	441
Vetoes	12

Symbols: P/H—Passed House; P/S—Passed Senate; *—Vetoed in 1975; (VV)—Passed by Voice Vote; numbers in parenthesis indicate number of record vote on passage, conference report, or reconsideration.

AGRICULTURE

African/Brazilian honeybee control: Amends the Act of 1922 regarding honeybees by prohibiting the importation of honeybees in all of their life stages (from germ plasm to adult) except under certain specified conditions and authorizing the Secretary of Agriculture to cooperate with State governments, organizations, individuals, and the governments of Mexico, Canada and the Central American countries to eradicate and control the spread of undesirable species of honeybees, including all forms of the African (or Brazilian) honeybee. S. 18. P/S June 16, 1975. (VV)

Agricultural pest control: Broadens and strengthens the authority of the Secretary of Agriculture to control and eradicate agricultural pests by (1) permitting the Secretary to carry out eradication and control programs with respect to plant pests not now covered by the Organic Act of 1944 including spider mites, slugs, and snails; (2) extending the Secretary's authority to cooperate with all governments of countries in the Western Hemisphere in carrying out eradication and control programs; (3) making discretionary the Secretary's authority to provide phytosanitary inspection and certification service for domestic plants and plant products for export, and extending such authority to inspection and certification of any plants or plant products offered for export or transiting the United States; (4) repealing provisions of the Act of October 6, 1917, for cooperation with Mexico and adjacent States in the extermination of pink bollworm infestations in Mexico which authority is now contained in the Organic Act; and (5) clarifying the Secretary's authority to cooperate with certain Western Hemisphere countries with respect to animal disease control and the carriers of animal diseases. S. 1617. P/S Sept. 16, 1975. (VV)

DES: Prohibits the administration of the drug diethylstilbestrol (DES) to animals intended for use as food or whose products are used as food pending completion of current studies of the health effects on humans resulting from such use of DES and separate and concurrent reports by the Secretaries of Health, Education, and Welfare and of Agriculture to the Congress recommending the course of action which should be followed concerning this use of this drug;

Amends the Food, Drug, and Cosmetic Act to require that any drug composed wholly or partly of DES carry a label stating that the drug may cause cancer, may not be used as a contraceptive after sexual intercourse except in cases of rape or incest or a comparable medical emergency, and that the drug may not be taken without the patient or patient's legal guardian being fully informed and giving written consent;

Provides in title II, the "Food and Drug Administration Act," for a stautory Food and Drug Administration within the Department of Health, Education, and Welfare; authorizes the appointment by the President of a Commissioner of Food and Drugs, a Deputy Commissioner, and a General Counsel by the President with the advice and consent of the Senate; and contains other provisions. S. 963. P/S Sept. 9, 1975. (387).

Disaster loan program: Amends the Consolidated Farm and Rural Development Act to simplify the procedures under which loans are made to victims of natural and major disasters or emergencies and make additional credit assistance available to them; eliminates the requirement that there be a general need for agricultural credit; clarifies the authority of the Secretary to delegate authority to State directors of the Farmers Home Administration to make emergency loans to an area if the director finds that a natural disaster has substantially affected twenty-five or less farming, ranching, or aquaculture operations in the area; provides that loans would be made only to victims of a disaster who are unable to obtain sufficient credit elsewhere at reasonable rates and terms with respect to loan applications filed after July 9, 1975; makes emergency loans available for livestock (as well as crop) changes deemed desirable by the applicant as a result of shifts in market demand occurring after a disaster; authorizes loans in excess of the actual loss caused by the disacter provided that a rate of interest is charged for the amount in excess which is equal to the commercial rate charged for similar loans; requires that an applicant seeking an emergency loan based on production losses show that his operation sustained at least a 20 percent loss as a result of the disaster; required the Secretary to accept as security for repayment of emergency loans collateral which has depreciated in value because of the disaster if the Secretary has confidence in the repayment ability of the applicant with such loans repayable at a time deemed justifiable by the needs of the applicant; provides annual subsequent loans for a period of up to 5 years when the borrowers need the credit to continue their operations and cannot obtain financing from other sources with interest rates for such loans at the commercial rate; authorizes the Secretary—for any disaster occurring after January 1, 1975—to make an emergency loan for an operating-type purpose for 20 years if it is determined that the applicant's financial needs justified a longer payment term than that normally extended for operating loans in order to afford needed relief to victims of such severe disasters as the January 1975 blizzard in the Midwest; provides that loans made by the Small Business Administration in connection with disasters occurring after enactment of this act shall bear an interest rate not more than the average annual interest rate on all interest-bearing obligations of the United States; and requires the Secretary to testify before the House and Senate committees on Agriculture before February 15 of each year to provide justification in detail of amounts requested in the budget to be appropriated for the next fiscal year for the purposes authorized in the Consolidated Farm and Rural Development Act, and of the amounts estimated to be utilized during such fiscal year from the Agricultural Credit Insurance Fund and the Rural Development Insurance Fund. S. 555. Public Law 94–68, approved August 5, 1975. (VV)

Food stamp increase: Suspends until December 30, 1975, the proposed administrative increase in the costs of coupons to food stamp recipients published in the Federal Register on January 22, 1975 (which would have the effect of increasing food stamp purchase requirements to 30 percent of net income for nearly all food stamp recipients by March 1, 1975), in order to give Congress an opportunity to pass on the merit of such an increase. H.R. 1589. Public Law 94–4, without approval Feb. 20, 1975. (8)

Food stamp program study: States the sense of the Senate that the Secretary of Agriculture should conduct a study of the food stamp program and report to Congress by June 30, 1975, recommendations for legislative changes which will (1) disqualify families who have adequate incomes; (2) reduce administrative complexities; (3) tighten accountability for procurement, shipping, and handling of food stamps; and (4) increase penalties for those who abuse the program, as well as any other recommendations he deems desirable. S. Res. 58. Senate adopted Feb. 5, 1975. (6)

Food stamps—SSI recipient eligibility: Continues through June 30, 1976, the provisions of law under which the Secretary of Agriculture issued his regulations governing the eligibility of SSI recipients (aged, blind and disabled) to receive food stamps and participate, where applicable, in the family commodity distribution program; permits eligible SSI food stamp recipients to use the stamps, where a need exists, to purchase meals prepared and delivered to them by private nonprofit organizations ("meals on wheels"); and directs the Secretary to provide certification procedures to allow a food stamp aid applicant to receive temporary certification and authorization to purchase food stamps on the same day the person applies. S. 1662. P/S June 10, 1975. (VV)

Forest pest control: Provides that funds appropriated for fiscal year 1975 to carry out the program of eradication and control of forest insect pests and diseases shall remain available until expended. S. 441. Public Law 94–40, approved June 20, 1975. (VV)

Forestry research: Amends the McIntyre-Stennis Act of 1962 to make privately endowed colleges eligible for the cooperative program of forest research under this act. S. 1307. P/S Mar. 24, 1975. (VV)

Amends the McIntyre-Stennis Act of 1962 to authorize the Secretary of Agriculture to make matching grants to private colleges and universities (that are ineligible under present law) which carried out a forestry and research program prior to enactment; authorizes such additional funds as necessary; and authroizes the Secretary to appoint officials of participating colleges and universities to the advisory committee. S. 1529. P/S Apr. 29, 1975. *NOTE:* (This bill is intended to clarify the purpose of S. 1307 which passed the Senate on Mar. 25, 1975.) (VV)

Grain standards: Grants the Secretary of Agriculture 1-year emergency powers to enable him to take immediate action to strengthen the system for the inspection, handling, and export of grain; requires the Secretary to review the designation of all official inspection agencies to determine if

they are in compliance with the provisions of the United States Grain Standards Act; makes several changes in the Act and the U.S. Criminal Code to increase the sanctions for violations of the Act; protects Department of Agriculture personnel assigned to inspecting, grading or weighing functions from assault and death, and makes clear that bribery of licensed inspectors is punishable as a felony; directs the Comptroller General to make a 1-year study concerning compliance of the Act by major grain exporters; requires the registration of any person engaged in the business of buying grain for sale in interstate or foreign commerce or in the handling, weighing, or transporting of grain for sale in interstate or foreign commerce; requires the Secretary to notify the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry of complaints made by foreign purchasers regarding faulty grain deliveries and cancellation of any contract for the export of more than 100,000 metric tons of grain; requires the Secretary to make studies regarding the adequacy of the current grain standards established under the Act and the contamination, transportation, and handling of U.S. agricultural products; and requires the Secretary to make periodic reports during the 1-year period concerning the steps taken to improve the inspection system for grain and any legislative recommendations. S.J. Res. 88. P/S Sept. 25, 1975. (VV)

Horse Protection: Amends the Horse Protection Act of 1970 (Public Law 91–54) in order to stop the practice of altering the gait of horses by injury ("soring") to assure that the horse has a distinctive high-stepping gait; prohibits the movement of "sore" horses in commerce, the showing of horses with "unsound" limbs, and the sale at a public auction or the showing of horses that have been sored or are wearing devices banned by the Secretary of Agriculture because they are usually used to make a horse sore or unsound; requires the management of horse shows and auctions to keep records subject to inspection by agents of the Department of Agriculture; imposes penalties for violations of the Act; and grants the Secretary of Agriculture the necessary authority to enforce the Act. S. 8116 P/S Oct. 9, 1975. (VV)

Insecticides: Extends the Federal Insecticide, Fungicide, and Rodenticide Act from July 1, 1975, until September 30, 1975, and authorizes therefor $11,967,000. H.R. 6387. Public Law 94–51, approved July 2, 1975. (VV)

Extends the Federal Insecticide, Fungicide, and Rodenticide Act from October 1, 1975, until November 15, 1975, and authorizes therefor $5,983,500. S. 2375. Public Law 94– , approved 1975. (VV)

Livestock credit: Amends the Emergency Livestock Credit Act of 1974 to (1) extend financial assistance to a farmer or rancher primarily involved in the breeding, raising, fattening, or marketing of livestock including dairy cattle; (2) permit secondary financing of the guaranteed portion of livestock loans through the Federal Financing Bank; (3) provide that contracts of guarantee shall not require the Secretary of Agriculture to guarantee more than 90 percent of principal and interest on such loan; (4) provide that guaranteed loans shall be for the period reasonably required by the needs of the borrower but not to exceed 7 years and may be renewed for not more than 3 years; (5) increase the guarantee of a line credit from $250,000 to $350,000 and limits the total outstanding loan guarantees to $1.5 billion; (6) authorize the payment of administrative expenses from any funds available including the Agriculture Credit Insurance Fund; (7) extend the act from July 25, 1975, until December 31, 1976; (8) require that action by the Department of Agriculture on each loan application be completed within 30 days; (9) require collateral adequate to protect the government's interest but allows collateral which has depreciated in value owing to temporary economic conditions; and (10) require an annual report on the effectiveness of the Act; and also amends the Consolidated Farm and Rural Development Act to provide that contracts of guarantee under that Act shall not require the Secretary to guarantee more than 90 percent of the principal and interest on such loans. S. 1236. Public Law 94–35, approved June 16, 1975. (VV)

Milk price supports: Requires, effective on the date of enactment and ending on March 31, 1979, that the Secretary of Agriculture adjust upward the support price of manufacturing milk at the beginning of each quarter to reflect any estimated increase during the immediately preceding quarter in the index of prices paid by farmers for production items, interest, taxes and wage rates. S.J. Res. 121. P/S Sept. 29, 1975. (VV)

Peanut distribution: Expresses the sense of the Senate that the Secretary of Agriculture immediately take steps to distribute excess peanut stocks in useful edible forms to needy persons at home and abroad under the domestic food assistance programs and the Public Law 480 program. S. Res. 101. Senate adopted Mar. 24, 1975. (VV)

Plum Island Animal Disease Center: States the sense of the Senate that the Office of Management and Budget should expedite its consideration of the supplemental budget request of the Department of Agriculture for $9.45 million for the expansion of animal quarantine facilities and diagnostic laboratories and for the construction of a pilot vaccine plant at the Plum Island, N.Y., Animal Disease Center, and forward this request to Congress for its consideration. S. Res. 190. Senate adopted June 19, 1975. (VV)

Potato stocks: States the sense of the Senate that the Secretary of Agriculture immediately take steps to distribute potato stocks, which are now in abundant supply, in useful edible forms to needy persons at home and abroad under the domestic food assistance programs and the Public Law 480 program to supplement protein deficiencies, the basic cause of malnutrition. S. Res. 122. Senate adopted May 16, 1975. (VV)

*Price Supports: Establishes an emergency price support program for the 1975 crop or commodity year for upland cotton, wheat, feed grains, soybeans and milk; increases the target price on cotton from 38 cents to 45 cents a pound, on corn from $1.38 a bushel to $2.25 and on other feed grains at comparable levels, on wheat from $2.05 a bushel to $3.41; increases the production loan levels on cotton from 34 to 38 cents per pound, on corn and feed grains from $1.10 a bushel to $1.87, and on wheat from $1.37 a bushel to $2.50; sets the support price of milk at no less than 85 percent of the parity price on the date of enactment and provides that the milk support price shall be adjusted quarterly thereafter, with this provision to remain in effect until April 1, 1976; and contains other provisions. H.R. 4296. Vetoed May 1, 1975. House sustained veto May 13, 1975. (116)

*Tobacco price supports: Amends the Agricultural Act of 1949, as amended, to increase the price support level for the 1975 crop of flue-cured tobacco from 93.2 cents per pound to 99.9 cents per pound. H.R. 9497. Vetoed Sept. 30, 1975. (VV)

Watershed projects: Amends the Watershed Protection and Flood Prevention Act to require congressional approval of watershed projects where the estimated Federal contribution is in excess of $750,000 instead of $250,000 as under existing law. S. 1230. P/S June 21, 1975. (VV)

Wheat referendum: Amends the Agricultural Adjustment Act to change the marketing year for wheat from July 1–June 30, to June 1–May 31. S. 435. Public Law 94–61, approved July 25, 1975. (VV)

White corn: Expresses the sense of the Senate that the Department of Agriculture should continue the white corn survey, which provides the white corn industry with critical data for orderly production, marketing and processing, and make the survey reliable by obtaining data from all the significant white corn producing States. S. Res. 155. Senate adopted May 21, 1975. (VV)

1975:

Continuing: Extends the continuing resolution, which expires on February 28, 1975, to provide obligational authority for foreign assistance programs through March 25, 1975, and funding of activities under title IX of the Public Health Service Act through June 30, 1975, for the following programs within HEW and the Community Services Administration which did not achieve final enactment during the 93d Congress: Health revenue Sharing and Services; Nurse Training; Health Manpower; Developmental Disabilities Services and Construction; and the Regional Medical program. H.J. Res. 219. Public Law 94–7, approved Mar. 14, 1975. (VV)

* Emergency employment: Appropriates a total of $5,306,508,000 in new budget authority, $485 million in loan authority and $92,362,000 in liquidation of contract authority for the acceleration of existing Federal programs and projects in order to increase immediately employment throughout the nation; provides two approaches to the unemployment problem: (1) $2,318,150,000 in direct creation of jobs as follows: $1.625 billion in public service jobs, $458,050,000 for summer youth employment and transportation, $30 million in jobs for older Americans, $119.8 million in work-study grants for college students, $70 million in the work incentive program to provide jobs, training and related child care for welfare recipients, and $15.3 million for the summer youth recreation program to be administered by the Community Services Administration which together with funds previously appropriated or available total about $3.5 billion; and (2) $2,988,358,000 for funding of projects which would stimulate jobs through acceleration of on-going public works projects, increase of rural water and sewer grants, improvement and modernization of existing veterans' hospitals, increased maintenance of the national cemeteries, reforestation and timber stand improvement, expansion and upgrading of facilities in national parks, forests and other Federal lands, increased assistance to small businesses, major repairs and renovations of existing buildings, and purchase of automobiles used by Federal agencies. H.R. 4481. Vetoed May 28, 1975. House sustained veto June 4, 1975. (151)

Foreign assistance: Appropriates a total of $3,674,346,982 in new obligational authority, which is $175,926,982 more than the amount allowed by the House and $271,750,000 less than that allowed by the Senate, $272,113,927 less than the fiscal year 1975 amended budget estimate, and $193,637,982 more than the 1974 appropriations; and includes:

Appropriations for Foreign Assistance Act activities of $854,800,000 in new obligational authority for economic assistance, which includes $300 million for food and nutrition development assistance; $125 million for population planning and health development assistance; $125 million for international organizations and programs; $5 million for the United Nations Environment Fund; $500,000 earmarked for the National Association of the Partners of the Alliance skill exchange program among peoples of the Americas; $17.5 million for international narcotics control; $35 million for famine or disaster relief assistance; $25 million for assistance to Portugal and Portuguese colonies in Africa gaining independence; $440 million for Indo-

china Postwar Reconstruction Assistance; $100 million for the Middle East Special Requirements Funds; and $660 million for Security Supporting Assistance and Middle East peace programs;

Appropriations for military assistance of $450 million in new obligational authority, which equals the 1974 appropriation, and is $757 million below the budget estimate of $1,207,000,000 in new obligational authority, which, when added to other available funds, would support a proposed fiscal year 1975 program of $1,246,000,000;

Appropriations for foreign military credit sales of $300 million, which is $255 million less than the budget estimate of $555 million and, combined with outside credits, will support a total military credit sales program of up to $872.5 million, the ceiling established in the authorization bill;

Appropriations for other foreign assistance of $844,546,982, which is $355,813,927 less than the budget estimate of $1,200,360,909, and includes $77 million for the Peace Corps, $90 million for the Cuban Refugee Program, $8,420,000 for migration and refugee assistance, $40 million for Soviet Jewish immigrants to Israel, $10 million for assistance to Palestinian refugees, funds to the President for international financial institutions (Asian Development Bank, Inter-American Development Bank, and the International Development Association) of $619,126,982; and

Sets a limitation on use of corporate funds for the Export-Import Bank of $6,413,328,000 which is the same as the House amount and the budget estimate. H.R. 4592. Public Law 94–11, approved Mar. 26, 1975. (77)

Summer youth employment and recreation: Appropriates a total of $473,350,000 for the summer youth employment and recreation programs of which $15,300,000 is to be used for the recreation program. H.J. Res. 492. Public Law 94–36, approved June 16, 1975. (VV)

Supplemental: Appropriates a total of $143,175,000 in new budget authority for fiscal year 1975 of which $17,175,000 is for alteration, maintenance, furnishing, and protection of House office space, $1 million is for temporary parking facilities for the Senate and additional costs in acquiring the site for a Senate garage, and the remaining $125 million is for operating assistance for the Penn Central and other railroads in reorganization under the Regional Rail Reorganization Act of 1973, and contains an increase of $150 million in loan guarantees for these railroads upon which no appropriations action is required; and repeals the provisions of Public Law 93–554 which, in effect, amounted to a blanket 5 percent reduction in Government travel. H.J. Res. 210. Public Law 94–6, approved Feb. 28, 1975. (31)

Appropriates in title I, a total of $15,066,595,998 in new obligational authority for general program supplemental appropriations for fiscal year 1975, advance funding for fiscal 1976, and one small item for fiscal 1974; in addition, also provides $206,407,375 in transfer authority, $274,306,000 in increased limitations and $53,714,000 for liquidation of contract authority; in title II, provides for increased pay costs; and in title III, prohibits use of funds under this Act to force the busing of students in schools or school districts which are desegregated as defined in title IV of the Civil Rights Act of 1964, to abolish a desegregated school, or to force the transfer of students in desegregated schools, and prohibits the use of funds under this Act for busing of students or teachers in order to overcome racial imbalance in any school or school system or carry out a plan of racial desegregation of any school or school system; and contains other provisions. H.R. 5899, Public Law 94–32, approved June 12, 1975. (192,194)

Veterans' supplemental: Appropriates an additional $638,038,00) for Veterans Administration readjustment benefits to fund the authorized increases contained in Public Law 93–337 which increased to 10 years the 8 year delimiting period for post-Korean Veterans; in Public Law 93–358 which increased from $2,800 to $3,300 the maximum grant for specially equipped automobiles for disabled veterans and extended eligibility for training and adaptive equipment; in Public Law 93–356 which increased from $17,500 to $25,000 the housing grant for certain disabled veterans; and in Public Law 93–602 which increased from 18.2 percent to 22.7 percent the monthly allowance for vocational rehabilitation trainee programs makes a total VA appropriation of $4,125,738,000 for fiscal year 1975; and appropriates $500,000 for salaries and expenses of the Federal Election Commission. H.J. Res. 375. Public Law 94–17, approved Apr. 25, 1975. (140)

Vietnamese Refugee Aid: Appropriates $405 million to aid refugees from Cambodia and Vietnam—$305 million to the Department of State for relocation and resettlement costs and $100 million to the Department of Health, Education, and Welfare for income, medical and education assistance to refugees in the United States—and prohibits aid to the government of Vietnam. H.R. 6894. Public Law 94–24, approved May 24, 1975. (187)

1976 and Transition Period:

Agriculture: Appropriates a total of $11,061,282,000 for fiscal year 1976 and $2,052,922,000 for the transition period July 1–September 30, 1976 for the Department of Agriculture and related agencies' programs. H.R. 8561. Public Law 94– , approved 1975. (333)

Continuing: Makes continuing appropriations for fiscal year 1976 which shall be available from July 1, 1975, and until enactment of the individual appropriation act or the sine die adjournment of the first session of this Congress, whichever occurs first. H.J. Res. 499. Public Law 93–41, approved June 27, 1975. (230)

*Education: Appropriates $7,480,312,952 for fiscal year 1976 and $464,683,000 for the transition period July 1–September 30, 1976, for education programs, including support to local school districts, aid to individuals attending institutions of higher learning, and special assistance to the needy and the handicapped. H.R. 5901. Vetoed July 25, 1975. House overrode Sept. 9, 1975; Senate overrode Sept. 10, 1975. Public Law 94–94, without approval Sept. 10, 1975. (258, 293, 389)

HUD: Appropriates $49,344,914,000 for fiscal year 1976 and $5,648,914,000 for the transition period July 1–September 30, 1976 for the Department of Housing and Urban Development and various independent agencies. H.R. 8070. Public Law 94– , approved 1975. (338)

Labor-HEW: Appropriates $36,274,092,318 for fiscal year 1976 and $8,960,364,000 for the transition period July 1–September 30, 1976 for the Departments of Labor, and Health, Education, and Welfare, and related agencies; includes programs for comprehensive manpower assistance and public service employment, occupational health and safety, maternal and child health, emergency medical services, Public Health Service hospitals, National Institutes of Health (NIH) research, alcohol, drug abuse, and mental health programs, public assistance, human development, and community services programs;

Exempts employers having 3 or fewer employees from the requirements of the Occupational Health and Safety Act (OSHA) and limits the fine on first inspections for firms with 15 or fewer employees to $50; Prohibits the use of funds under this act by the Department of Health, Education, and Welfare (HEW) to require transportation of students to schools other than those closest to home, and also prohibits the use of funds by HEW under this act to require transportation of students except pursuant to a final decree of a court of law. H.R. 8069. P/H June 24, 1975; P/S amended Sept. 26, 1975; Conference report filed. (423)

Legislative: Appropriates $827,546,570 for the legislative branch for fiscal year 1976 and $207,391,365 for the transition period July 1–September 30, 1976, which includes funds for the Architect of the Capitol to prepare studies and develop a master plan for future development within the Capitol grounds and to remove architectural barriers to the handicapped on Capitol Hill, funds for increases in salaries for top Senate officials and staff employees ($40,000 for the Secretary of the Senate, the Sergeant at Arms of the Senate, and the Legislative Counsel, $39,500 for the party Secretaries, and $38,000 for administrative assistants and top committee staff), and moneys for a full telecommunications network to bring a comprehensive legislative information system into each Senator's office; freezes the salaries of Senate and House pages at their present level; and directs the Architect of the Capitol to recommend within 3 months a plan to reduce by at least 50 percent the number of elevator operators in the Capitol complex. H.R. 6950. Public Law 94–59, approved July 25, 1975. (266)

State - Justice - Commerce: Appropriates $5,958,676,000 for fiscal year 1976 and $1,551,256,000 for the transition period July 1–September 30, 1976, for the Depatments of State, Justice, and Commerce, the Judiciary, and various related agencies and states as the sense of the Congress that any new Panama Canal treaty or agreement must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, property, and defense of the Canal. H.R. 8121. Public Law 94– , approved 1975. (378)

Transportation: Appropriates a total of $4,194,482,775 for the Department of Transportation and related agencies for the fiscal year ending June 30, 1976 and $1,007,687,939 for the transition period July 1,–September 30, 1976; includes $300,000 for the Civil Aeronautics Board for analytical research to effect necessary regulatory reform of the airlines industry, $10 million for the Coast Guard Pollution Control Fund to insure immediate clean up of oil spills, $10 million for a bikeway demonstration program, $450,000 for the National Highway Traffic Safety Administration demonstration projects for emergency medical services and $3 million for rail passenger and terminal facilities at Baltimore Washington International Airport; limits obligation of appropriated Federal-aid highway funds to $9 billion through Septemer 30, 1976; and contains other provother provisions. H.R. 8365. P/H July 10, 1975; P/S amended July 25, 1975; In conference. (232)

Treasury-Postal Service: Appropriates $6,314,070,000 for fiscal year 1976 and $1,275,352,000 for the transition period July 1–September 30, 1976, for the Treasury Department, the Postal Service, the Executive Office of the President, and certain other independent agencies. H.R. 8597. Public Law 94–91, approved August 9, 1975. (334)

ATOMIC ENERGY

International agreements:

Atomic energy cooperation agreement with Israel: Approves the proposed two year extension of the Agreement for Cooperation Between the United States and Israel which concerns peaceful research applications in the field of atomic energy. S. Con. Res. 15. Senate adopted Feb. 19, 1975; House adopted Mar. 11, 1975. (VV)

Enriched uranium distribution to euratom: Approves the proposed increase (from the present 35,000 megawatt ceiling to 55,000 megawatts) in the amount of enriched uranium which may be distributed by the United States to EURATOM under Section 54 of the Atomic Energy Act of 1954, as amended, to

support the fuel cycle of power reactors in the Community, such transfers to be subject to the additional Agreement for Cooperation with EURATOM (which among other things, contains provisions for safeguards against the diversion of special nuclear material to military applications) and in accordance with our Non-Proliferation Treaty obligations. S. Con. Res. 14. Senate adopted Feb. 19, 1975; House tabled Mar. 17, 1975. (VV)

Enriched uranium distribution to the International Atomic Energy Agency: Approves the proposed increase in the amount of enriched uranium which may be distributed by the United States to the IAEA under Section 54 of the Atomic Energy Act of 1954, as amended, to allow for the support of fuel cycle of power reactors, to be purchased from U.S. manufacturers, located in member states of IAEA (2 in Mexico, 1 in Yugoslavia) having a total installed capacity of 2,015 megawatts of electrical energy. S. Con. Res. 13. Senate adopted Feb. 19, 1975; House tabled Mar. 17, 1975. (VV)

Nuclear Regulatory Commission Authorizations: Authorizes supplemental appropriations of $50.2 million to the Nuclear Regulatory Commission for fiscal year 1975 which is in addition to the $90,765,000 fiscal year 1975 authorization for the Atomic Energy Commission (Public Law 93-276) and transferred to the Commission on January 19, 1975, when the Atomic Energy Commission was abolished pursuant to the Energy Reorganization Act of 1974 (Public Law 93-438) and its functions transferred to the Nuclear Regulatory Commission and Energy Research and Development Administration. S. 994. Public Law 94-18, approved Apr. 25, 1975. (VV)

Authorizes $222,935,000 for fiscal year 1976 and $52,750,000 for the transition period July 1-September 30, 1976, for the Nuclear Regulatory Commission; authorizes an additional 131 employees for nuclear safety inspection and enforcement; prohibits the shipment, by air transport, of any form of plutonium (except if it is contained in a medical device designed for individual human application) until the Commission has certified to the Joint Committee on Atomic Energy that a safe container has been developed which will not rupture under crash and explosion of a high-flying aircraft; and clarifies the commencing date for for the terms of the members of the Commission. S. 1716. Public Law 94-79, approved August 9, 1975. (VV)

BUDGET

Deferrals—1975:

Energy Research and Development Administration: Rescinds $66.5 million and disapproves $46.1 million of the $112.6 million deferral recommended by the President in his message of November 26, 1974, provided under the 1975 Public Works-AEC Appropriations Act (P.L. 93-393) for various programs within the Energy Research and Development Administration. By this action, deferral of budget authority was disapproved for the following programs: Biomedical and Environmental Research—Artificial Heart Research, $4 million (S. Res. 32); Nuclear Materials, $12 million (S. Res. 75); Laser Fusion Program, $4.7 million (S. Res. 76); Controlled Thermonuclear Research—Fusion Program, $8 million (S. Res. 77); Physical Research, $2.7 million (S. Res. 78); Gas Cool Fast Reactor Program, $6.7 million (S. Res. 79); and LMFBR Technology, $8 million (S. Res. 80). S. Res. 32, S. Res. 75, S. Res. 76, S. Res. 77, S. Res. 78, S. Res. 79, S. Res. 80. Senate adopted May 7, 1975. (VV)

HUD—Comprehensive planning grants: Disapproves the $50 million deferral for the HUD Comprehensive Planning Grant Program recommended by the President in his message of November 26, 1974. S. Res. 23. Senate adopted Mar. 13, 1975. (VV)

Transportation—Highway grants: Disapproves the $9,136,590,427 deferral for Federal highway funds to the States recommended by the President in his message of September 20, 1974. S. Res. 69. Senate adopted Apr. 24, 1975. (149)

Youth Conservation Corps: Disapproves the $10 million deferral for the Forest Service Youth Conservation Corps program recommended by the President and reported by the Comptroller General in his letter of July 9, 1975. S. Res. 205. Senate adopted July 10, 1975. (VV)

Deferrals—1976:

Emergency energy conservation services: Disapproves the proposed deferral of $16.5 million for the Emergency Energy Conservation Services program recommended by the President in his message of July 26, 1975. S. Res. 267. Senate adopted Oct. 3, 1975. (VV)

Rescissions—1975:

Agriculture, Commerce, Consumer Product Safety, DOD, HEW, Labor: Rescinds $16,454,704 ($10 million for Forestry Incentive Programs, $955,000 for Defense special foreign currency programs, $500,000 for the Consumer Product Safety Commission, and $4,999,704 for the Latin-American Cultural and Trade Center within the Department of Commerce) and disapproves $1,243,939,250 of the rescission of $1,260,393,954 recommended by the President in his message of January 30, 1975, and the communications of the Comptroller General of February 7 and 14, 1975, as follows: Department of Agriculture—$191,690,000; Consumer Product Safety Commission—$1,209,000; Community Service Employment for Older Americans in the Department of Labor—$12 million; Department of HEW—$936,030,250; and Department of Commerce—$125 million which is for the Job Opportunities Program which had been submitted as a deferral and reclassified by the Comptroller General as a rescission. H.R. 4075. Public Law 94-15, approved Apr. 8, 1975. (VV)

Agriculture, Commerce, DOD, Executive Office, General Services, Justice, HEW, State, Treasury: Approves rescission of budget authority in the amount of $243,359,370, and disapproves $706,083,802 of the amounts proposed for rescission by the President, for the following departments:

Department of Agriculture: Approves a partial rescission of $7,856,470 for the Agriculture Stabilization and Conservation Service Water Programs, leaving available $13,356,470 for the wetlands and marshlands conservation program; disapproves rescissions of $14,921,000 for the Forest Service;

Department of Defense: Approves rescission of $60,300,000 for operations and real property maintenance; disapproves rescission of $5,700,000 for Army UH-IH utility helicopters procurement because rescission would result in no procurement of needed helicopters in fiscal year 1975; approves rescission of $122,900,000 for Air Force F-111F fighter aircraft; disapproves rescission of $29,600,000 for Air Force A-7D attack aircraft as being necessary for modernization of the Air National Guard;

Department of Health, Education, and Welfare: Disapproves rescission of $284,719,000 for Hill-Burton hospital bed construction;

Department of State: Approves rescissions of $2.1 million in savings;

Department of Justice: Disapproves rescission of $5,350,000, $1.3 million, and $2.4 million respectively for salaries and expenses of the FBI, Immigration and Naturalization Service, and the Drug Enforcement Administration on the basis that the rescission would adversely affect accomplishment of the purposes of these agencies; approves rescission of $7 million for the Bureau of Prisons in view of a lower than expected prison population and the possibility of acquiring a new facility at no cost;

Department of Commerce: Approves rescissions totaling $2.25 million for Social and Economic Statistics, Administration, Trade Adjustment Assistance, U.S. Travel Service, the Patent Office and the marine data buoy project of the National Oceanic and Atmospheric Administration; disapproves rescission of $2 million for Economic Development Administration assistance programs which affect planning for areas of chronic, high unemployment; disapproves rescissions of $1.3 million, $500,000, and $500,000 respectively for National Oceanic and Atmospheric Administration, salmon and steelhead rearing ponds, three regional fisheries commissions under the National Fisheries policy, and the marine ecosystems project in Puget Sound;

Department of the Treasury: Approves rescissions of $1.53 million affecting the Office of the Secretary, the Federal Law Enforcement Training Center, the Bureau of Accounts, and the Internal Revenue Service; disapproves rescission of $9,230,000 and $10,240,000 respectively, for accounts, collection, and taxpayer service and compliance in the Internal Revenue Service; disapproves rescission of $3 million for the Customs Service on the basis of adverse impact on its functions;

Executive Office of the President: Approves rescission of $2,240,000 for the Special Action Office for Drug Abuse Prevention as legislative authority for this office expires June 30, 1975 and other funding available is considered sufficient;

General Services Administration: Approves rescission of $20,022,900 for the Federal Buildings Fund which will be withdrawn from programmed low-priority work which has not been started. H.R. 3260. Public Law 94-14, approved Apr. 8, 1975. (68)

HEW—Health and medical service programs: Disapproves $264,700,000 of the proposed rescission of $266,323,000 recommended by the President in his message of April 8 and May 8, 1975, for the following programs of the Department of Health, Eduction, and Welfare: Alcohol, Drug Abuse and Mental Health; D.C. medical facilities; Nurse training, allied and public health, and funding for medical facilities and construction; and emergency food and medical services, and summer youth sports; and approves the rescission of $1,623,000 for health services. H.R. 6573. P/H May 12, 1975; P/S amended June 10, 1975; House disagreed to Senate amendment June 12, 1975. (VV)

HUD—Homeownership assistance: Disapproves the $264,117,000 rescission for the HUD Homeownership Assistance Program recommended by the President in his message of October 4, 1974. S. Res. 61. Senate adopted Mar. 13, 1975. (VV)

Recissions—1976:

Agriculture, HEW, Interior, Transportation, Treasury: Rescinds $47.5 million for the Department of Interior, Bureau of Mines helium fund and disapproves $184,337,334 of the rescission of $188,888,000 recommended by the President in his message of July 26, 1975 as follows: HEW, Headstart services to handicapped children—$7 million; HEW Community Services Administration—$9 million; Agriculture, Forest Service roads and trails—$25,723,000; Transportation, scenic highways—$90 million; and Treasury, construction of Federal Law Enforcement Training Center—$8,665,000. H.R. 9600. Public Law 94- , approved 1975. (VV)

Resolutions:

First budget resolution: Recommends budget outlays of $367 billion, estimated revenues of $298.18 billion and an estimated deficit of $68.82 billion as compared to the President's budget estimates of $355.6 billion in outlays adjusted as of April 4, estimated revenues of $297.5 billion, and a proposed deficit level of $60 billion; recommends, in order to achieve the revenue level suggested that revenues should be decreased by $3.4 billion; and, in making the revenue recommendations

(1) assumes that major provisions of the Tax Reduction Act scheduled to expire December 31, 1975 will be extended by the Congress and thus lower revenues by $4.4 billion, (2) takes the position that additional revenues should be raised through enactment of tax reform legislation in the amount of $1 billion in fiscal year 1976, and (3) assumes that, as a result of recent tax collection experience, an additional $2 billion in revenues wil be received during fiscal year 1976; does not contain the function-by-function allocations which will be reported in later years but is based on recommended outlays for budget programs by function for fiscal year 1976 as compared with the President's proposed budget outlays as follows:

National Defense: $91.2 billion in budget outlays as compared to $93.9;

International Affairs (conduct of foreign affairs, foreign information and exchange activities, the Peace Corps, Food for Peace, and foreign assistance except for military assistance): $4.9 billion as compared to an estimated $5.1 to $6.4 billion;

General Science, Space, and Technology: $4.6 billion, which is the same as that proposed in the President's budget;

Natural Resources, Environment, and Energy: $11.6 billion as compared to $10.2 billion;

Agriculture: $1.8 billion, which is the same as that in the President's budget;

Commerce and Transportation: $17.5 billion as compared to $14.7 billion;

Community and Regional Development: $8.65 billion as compared to $6 billion;

Education, Manpower, and Social Services: $19.85 billion as compared to $16.6 billion;

Health: $30.7 billion as compared to $28.4 billion;

Income Security (social security and unemployment insurance, retirement systems for Federal and railroad employees and assistance programs for the needy): $125.3 billion as compared to $120.9 billion;

Veterans Benefits and Services: $17.5 billion as compared to $16.2 billion;

Law Enforcement and Justice: $3.4 billion as compared to $3.3 billion;

General Government: $3.3 billion as compared to $3.2 billion;

Revenue Sharing and General Purpose Fiscal Assistance: $7.2 billion, which is the same as that in the President's budget;

Interest: $35.3 billion as compared to $34.4 billion;

Allowances (includes energy tax equalization payments, civilian agency pay raises and contingencies): $1.2 billion as compared to $8.1 billion, caused mainly by the deduction of $7 billion included in the President's budget to equalize the impact of his original energy tax proposals based on the assumption that the President's program will not be approved by the Congress; and

Undistributed Offsetting Receipts (includes Federal Government contributions to the employee retirement funds, interest earned on trust funds and revenue from oil leases on the Outer Continental Shelf): Deduction of $16.2 billion in undistributed offsetting receipts from the budget total in 1976 as compared to $20.2 billion in the President's budget, in the Congressional budget difference being due to an estimate of $4 billion in receipts by the Committee from the sale of leases for offshore oil drilling and an estimate of $8 billion in such receipts in the President's budget. H. Con. Res. 218. House adopted May 1, 1975; Senate adopted amended May 5, 1975; House and Senate agreed to conference report May 14, 1975. (157)

CONGRESS

August recess: Provides for the adjournment of the Congress from Friday, August 1 until noon, Wednesday, September 3, unless reassembled by the House or Senate leadership, and authorizes the Secretary of the Senate and the Clerk of the House to receive messages, including veto messages, from the President during this time. S. Con. Res. 54. Senate adopted July 22, 1975; House adopted July 28, 1975. (307)

Congressional paycheck disbursements: Amends section 3620 of the Revised Statutes relating to payroll disbursements to give Congressional employees the same option as other Federal employees of having their pay sent to two or three different financial institutions of their choice effective when the Secretary of the Senate and the Clerk of the House respectively determines the feasibility of compliance for their employees but no later than July 1, 1976. H.R. 7405. Public Law 94–57, approved July 19, 1975. (VV)

Guam and Virgin Islands delegate allowance: Provides that the clerk hire allowance and the transportation expenses subject to reimbursement under Federal law of the Delegates from Guam and the Virgin Islands shall be the same as allowed for Members of the House of Representatives. H.R. 4269. Public Law 94–26, approved May 27, 1975. (VV)

Joint Committee on the Bicentennial: Establishes a Joint Committee on Arrangements for the Commemoration of the Bicentennial, to be composed of 12 members (the majority and minority leaders of the Senate and House, the Members of Congress who are members of the American Revolution Bicentennial Board, 2 members appointed by the President of the Senate, and 2 members appointed by the Speaker of the House) to coordinate the planning and implementation of Bicentennial activities and events of the Congress with those of other groups; to consult with the Speaker of the House and President of the Senate to provide for congressional representation at appropriate Bicentennial events; and to develop and implement programs to inform and emphasize to the Nation the role of the Congress, as the representative of the people, over the past 200 years. S. Con. Res. 44. Senate adopted June 13, 1975; House adopted amended June 23, 1975; Senate agreed to House amendment with amendment July 30, 1975. (VV)

Supreme Court Chamber: Declares officially open the Chamber of the Supreme Court which is located in the Capitol and extends congratulations and appreciation to the various people who contributed to the restoration of this Chamber. S. Res. 164. Senate adopted May 21, 1975. (VV)

CONSUMER AFFAIRS

Consumer fraud: Protects consumers and reduces the instances of consumer fraud by amending the United States Code in order to make the knowing commission of the following consumer frauds subject to criminal penalties: (1) offering or advertising of goods or services with the knowledge that they will not be sold as so offered or advertised; (2) utilization of false or misleading statements or advertising with respect to goods and services; (3) false description of goods; (4) refusal to return a price or deposit when goods have not been and will not be delivered or when services contracted for have not or will not be performed; and (5) use of physical force, threats, harassment or similar misconduct in the course of a sale or in an attempt to collect the purchase price of goods and services from a customer; imposes a maximum fine of $1,000 and/or 1 year imprisonment for first offenses and a $10,000 fine and/or 3 years imprisonment for second and subsequent offenses; allows a consumer to cancel any contract or agreement resulting from a transaction involving a proscribed unfair consumer practice; and authorizes the Attorney General of the United States and the attorney general of any State to seek an injunction to enjoin the commission of such unfair consumer practices. S. 670. P/S July 10, 1975. (VV)

Consumer product safety: Authorizes appropriations of $51 million for fiscal year 1976, $14 million for the transition period July 1-September 30, 1976, and $55 million for fiscal year 1977 for implementation of the Consumer Product Safety Act; contains provisions concerning the jurisdiction of the Consumer Product Safety Commission (CPSC) which: (1) eliminates pesticides from the Commission's jurisdiction under the Poison Prevention Packaging Act of 1970 as being duplicative of the Environmental Protection Agency's authority under the Federal Environmental Pesticide Control Act of 1972 to enforce pesticide-related packaging standards for the purpose of child protection; (2) provides that the Commission has no jurisdiction to regulate tobacco or tobacco products as being a "hazardous substance" under the Federal Hazardous Substances Act, but provides that the Commission may regulate tobacco and tobacco products under the Consumer Product Safety Act to the extend that such products present an unreasonable risk of injury as a source of ignition; (3) provides that the Commission, under the Hazardous Substances Act, may not regulate ammunition as a "hazardous substance" may continue to establish and enforce cautionary labeling requirements relative to storage in a household, and may continue to regulate fireworks as a "hazardous substance"; prohibits political clearance by the Executive Office of the President, the Office of Management and Budget, or other executive agency of any employee whose principal duties would involve significant participation in the determination of major Commission policies or who would serve as a personal assistant or adviser to any Commissioner; requires, in order to facilitate the identification of potential product hazards, that a product liability insurer or an independent testing laboratory which discovers a substantial product hazard in the course of its business must report that finding to its insured or its client and inform him of his obligations, if any, under the law; enlarges the enforcement authority of the Commission; provides a uniform Federal preemption clause for the Federal Hazardous Substances Act, the Flammable Fabrics Act and the Consumer Product Safety Act which provides that if the Commission has requirements in effect for a product, State or local requirements must conform to the Federal standard unless the State requirement does not cause the product to be in violation of the Federal standard and provides a significantly higher degree of protection without unduly burdening the manufacture or distribution of products in interstate commerce; gives courts the discretion to award attorney's fees to persons involved in obtaining judicial review under the Consumer Product Safety Act; and contains other provisions. S. 644. P/S July 18, 1975. (297)

Consumer protection: Protects the interests of consumers and promotes consumer protection in the United States; creates an independent Agency for Consumer Advocacy (ACA) to represent and advocate the interests of consumers before other Federal agencies and Federal courts; authorizes the ACA to receive and transmit complaints from consumers and develop and disseminate information concerning interests of consumers;

Exempts from the jurisdiction of the ACA the following: the Central Intelligence Agency, the Federal Bureau of Investigation, or the National Security Agency, or the national security and intelligence functions of the Departments of State and Defense and the military weapons program of the Energy Research and Development Administration, as well as any Federal Communica-

tions Commission proceeding relating to renewals of radio or television broadcasting licenses, or any labor-management case before the National Labor Relations Board; prohibits intervention or participation by the ACA in any proceeding or activity directly affecting producers of livestock, poultry, agricultural crops or raw fish products; prohibits such intervention with respect to the granting or enforcement of any right-of-way or other authorization relating to the Alaska pipeline system of oil or natural gas; prohibits such intervention in proceedings relating to limiting the manufacture or sale of firearms or ammunition;

Requires the General Accounting Office to review all of ACA's activities and report to Congress thereon within 3 years; makes the provisions of the Freedom of Information Act applicable to the ACA; provides for the preparation of cost and benefit assessment statements by Federal agencies issuing rules or proposing legislation which have a substantial economic impact; and contains other provisions. S. 200. P/S May 15, 1975. (184)

Motor vehicle information and cost savings: Amends the Motor Vehicle Information and Cost Savings Act to authorize additional appropriations to implement the four titles of the bill for fiscal year 1976, the fiscal year transition period July 1–September 30, 1976, and fiscal year 1977 respectively, as follows: Title I, which requires the Secretary of Transportation to promulgate bumper standards applicable to all passenger motor vehicles: $500,000, $125,000 and $500,000; Title II, which provides for an automobile consumer information program: $2 million, $650,000, and $4 million; Title III, which provides for diagnostic inspection demonstration projects: $5 million, $1.5 million, $7.5 million; and Title IV, which sets odometer requirements: $450,000, $100,000 and $650,000; redefines the special motor vehicle diagnostic inspection demonstration project under title III to assure that the project will be designed for use by States for high volume inspection facilities to evaluate conditions of parts, components and repairs required to comply with State and Federal safety, noise and emission standards and to assist the owner in achieving the optimum fuel and maintenance economy and authorizes an additional $7.5 million for fiscal year 1978 to implement this program; provides the Secretary with additional authority to enforce the odometer antitampering provisions; and imposes a civil penalty of not to exceed $10,000 for each violation and criminal penalties of not more than $50,000 and/or 1 year in prison. S. 1518. P/S June 5, 1975. (VV)

CRIME—JUDICIARY

Bilingual court proceedings: Amends title 28, U.S.C., by adding a new section specifying the circumstances when an interpreter must be furnished to translate all or part of the court proceedings for the benefit of a non-English-speaking party or when a witness does not speak English and imposes administrative duties upon the Administrative Office of the U.S. Courts in relation to certification and use of interpreters. S. 565. P/S July 14, 1975.(VV)

Federal rules of criminal procedure: Approves and amends certain amendments to the Federal Rules of Criminal Procedure as proposed by the Supreme Court in its order of April 22, 1974, pursuant to statutes known as "rules enabling acts", to become effective on December 1, 1975. H.R. 6799. Public Law 94–64, approved July 31, 1975. (VV)

Federal rules of evidence: Amends the Federal Rules of Evidence to make clear that nonsuggestive lineup, photographic and other identifications, made in compliance with the Constitution, are admissible in evidence. S. 1549, Public Law 94– , approved 1975. (VV)

Florida judicial district: Transfers Madison County from the middle judicial district to the northern district of Florida to reduce the average travel time for Madison County residents. S. 723. P/S June 19, 1975. (VV)

Judgeships for the U.S. Courts of Appeals: Authorizes the President to appoint, with the advice and consent of the Senate, one additional circuit judgeship each for the first, third, fourth, sixth, seventh, eighth and tenth circuits. S. 286. P/S Oct. 2, 1975. (VV)

Jurors fees: Amends the Jury Selection and Service Act of 1968, as amended to increase from $20 to $25 per day the jury attendance fee and establish minimal criteria for judicial certification of additional fees for extended petit and grand jury service; authorizes new procedures for determining amounts to be expended for juror travel allowances and expenses including tolls and parking charges and new procedures for determining the amounts to be expended for juror subsistence allowances when such allowances are necessitated by long travel distances or sequestration;

Requires that any employee, other than a temporary worker, applying for reemployment within 15 days after completing his or her jury service, be rehired at his or her former seniority, status, and pay; requires that any employee so restored be classified as having been on furlough or leave-of-absence for purposes of insurance and other employment benefits; prohibits such employee from being discharged without cause for at least 1 year after returning to work; confers upon the district courts original jurdisdiction to grant money damages regardless of the amount in controversy; requires U.S. Attorneys to act as attorneys for any person claiming a violation of his or her reemployment rights; and prohibits the assessment of attorney fees or court costs against any person who brings such an action in good faith. S. 539. P/S Sept. 30, 1975. (VV)

Parole Commission: Reorganizes the Federal paroling structure by abolishing the present U.S. Board of Parole and replacing it with an independent U.S. Parole Commission attached to the Department of Justice; increase the Parole Board from 8 to 9 Commissioners (one to serve as Chairman, three to serve as members of a National Appeals Board, and five to serve in the five regions around the country); provides for panels of hearing examiners, operating under guidelines adopted by the full Commission, to conduct parole hearings and recommend decisions subject to review by regional commissioners and the National Appeals Board before becoming final; provides an internal process by which the Attorney General or the offender may trigger a review by the National Appeals Board of any decision made by a regional commissioner; gives the Chairman the necessary administrative powers to keep the decision-making machinery of the Parole Commission operating on a timely basis; provides a procedure to insure better opportunities for decision-making and fairness in parole interview; requires that the revocation process whereby a parolee is returned to prison for violating the conditions of his parole must contain certain procedural safeguards set out by the Supreme Court in Morrissey v. Brewer, 408 U.S. 471 (1972) and Gagnon v. Scarpelli, 411 U.S. 778 (1973); and provides that an offender who has demonstrated by his conduct that he has rehabilitated himself could be discharged from supervision by the Parole Commission. H.R. 5727. P/H May 21, 1975; P/S amended Sept. 16, 1975; House requested conference Oct. 8, 1975. (VV)

Pyramid sales: Prohibits the use of any means or instrumentality of transportation or communication in interstate commerce or of the mails for sales, offers, or attempts to sell a participation or rights to participate in a "pyramid sales scheme" which is defined as an investment program based on inducing people to buy the right to sell similar rights to other people. S. 1509. P/S May 14, 1975. (VV)

Robert E. Lee: Restores posthumously full rights of citizenship to General Robert E. Lee, effective June 13, 1865, which were forfeited by him as General of the Army of Northern Virginia in the war between the States. S.J. Res. 23. Public Law 94–67, approved August 5, 1975. (VV)

Three-judge courts: Eliminates the requirement for special three-judge courts in cases seeking to enjoin the enforcement of State or Federal laws on the grounds of unconstitutionality except when specifically required by act of Congress or in any case involving congressional reapportionment or the reapportionment of any statewide legislative body and clarifies the composition and procedure of three-judge courts in those cases where they are required. S. 537. P/S June 20, 1975. (VV)

DEFENSE

Coast Guard authorization: Authorizes $149,676,000 for fiscal year 1976 and the transition period (July 1–September 30, 1976) to the Coast Guard for the procurement of vessels and aircraft, construction of shore and offshore establishments including the Valdez, Alaska, vessel traffic control system and the Sitka, Alaska, Air Station to assure that the stations are operational upon the completion of the Trans-Alaska pipeline, and payment to bridge owners for the cost of alterations of railroad bridges and public highway bridges across the navigable waters of the United States; authorizes the year-end strength for active duty personnel and provides additional personnel for fishery surveillance and enforcement by helicopter; and authorizes the military training student loads. H.R. 5217. Public Law 94–54, approved July 7, 1975. (VV)

Defense production: Extends the Defense Production Act until September 30, 1977, to coincide with the new fiscal year established in the Congressional Budget Act of 1974 (P.L. 93–344);

Provides additional procedural safeguards for the granting of antitrust immunity to the development and implementation of voluntary agreements requested by the President from various industries or other interest groups to meet national defense emergencies;

Contains separate special authority for the voluntary agreement developed in support of the Executive Agreement on an International Energy Program (IEP) signed by the United States on November 18, 1974, which includes more flexibility in order to allow for international negotiation, but makes clear that such authority shall not be construed as any form of congressional approval of specific terms of the agreement;

Removes the $15 per diem limitation on travel expenses for members of the National Defense Executive Reserve (NDER) while serving without pay and traveling for the purpose of participating in the NDER training program and permits them to be reimbursed in accordance with applicable statutes authorizing such allowances for other individuals serving the U.S. without pay;

Removes the 40 cent per 100 words limitation on the cost of stenographic services to report hearings of the Joint Committee on Defense Production; and

Permits the Joint Committee on Defense Production to voucher thus placing it on a similar authorization procedure as other Joint Committees. S. 1537. P/S. Sept. 15, 1975. (VV)

Defense production—Commission on Productivity and Work Quality: Extends the expiration date of the Defense Production Act of 1950 and funding for the National Commission on Productivity and Work Quality for 90 days, through September 30, 1975. S.J. Res. 94. Public Law 94–42, approved June 28, 1975. (VV)

Extends the expiration date of the Defense Production Act of 1950 and funding for the National Commission on Productivity and Work Quality for 60 days, through November 30, 1975. H.J. Res. 672. Public 94–100, approved Oct. 1, 1975 (VV)

Diego Garcia: Disapproves the proposed construction project on the island of Diego Garcia, the need for which was certified by the President in a document received by the Senate on May 12, 1975. S. Res. 160. Senate rejected July 28, 1975. (340)

Military construction authorization: Authorizes a total of $3,853,705,000 for fiscal year 1976 and the transition period July 1–September 30, 1976, to provide construction and other related authority for the military departments, and the office of the Secretary of Defense, within and outside the United States, and authority for construction of facilities for the Reserve Components; includes $13.8 million for construction and expansion of the naval base at Diego Garcia in the Indian Ocean and $52,738,000 for aircraft shelters for in-place aircraft in the United Kingdom with the assurance by the Department of Defense that NATO recoupment would be requested prior to expending any of the funds; contains language to reduce the number of deficiency authorizations; directs the Defense Department to make certain changes in the organization of future requests; and contains other provisions. S. 1247. Public Law 94– , approved 1975. (425)

Military procurement authorization: Authorizes a total of $25,513,383,000 for fiscal year 1976 and $5,354,723,000 for the transition period of July 1, 1976 through September 30, 1976 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces; authorizes $380.5 million for six airborne warning and control system—AWACS—aircraft and $7.362 million for the B–1 bomber; authorizes the personnel strength for military active duty components of the Armed Forces and makes a total reduction of 9,000 in the requested strengths, to be made as directed by the Secretary of Defense; authorizes the annual average military training student load for each of the active and reserve components and the personnel strengths for the Selected Reserve of each of the Reserve components; provides a 23,000 total reduction of the requested end strengths for civilian personnel for the Department of Defense, with civilian personnel to be allocated among the military departments and Defense agencies by the Secretary of Defense; contains provisions regarding discrimination in supplying petroleum products for the Armed Forces; provides that no service members who retired after January 1, 1971 may receive less retired or retainer pay than they would have received at an earlier date on or after January 1, 1971; reduces the number of enlisted service personnel who may be assigned as servants to officers; approves the admission of women to the service academies for the class beginning in 1976; extends until December 31, 1977 the President's authority to transfer aircraft and related equipment by sale, credit, or guarantee in order to maintain the military balance in the Middle East; and contains other provisions. H.R. 6674. Public Law 94– , approved 1975. (214,374,424)

Naval museum: Expresses the approval of Congress with respect to the establishment by the State of South Carolina of the Naval and Maritime Museum in the City of Charleston. S. Con. Res. 9. Senate adopted Feb. 28, 1975. (VV)

Nuclear-trained naval officers pay bonus extension: Extends through fiscal year 1977, the authority under Public Law 92–581 to pay a $15,000 bonus to any nuclear-trained naval officer who prior to completion of 10 years of active service, agrees to remain on active duty for 4 years in addition to any other period of obligated active service. S. 2114. P/S July 26, 1975. (VV)

Officer graduate school appointees: Eliminates any period during which an officer was listed in a missing status for the purpose of computing the 6-year period in considering eligibility of appointees to officer graduate school. S. 1767. P/S May 21, 1975. (VV)

DISTRICT OF COLUMBIA

Southeastern University: Insures the continued eligibility of Southeastern University for the benefits of the several acts providing for aid to higher education and amends its Charter to make possible the continued operation of the University as a nonprofit, tax-exempt educational institution under the provisions of section 501(c)(3) of the Internal Revenue Code. S. 611. P/S June 19, 1975. (VV)

ECONOMY—FINANCE

Appalachian regional development: Extends the Appalachian Regional Development Act for 2 years, until September 30, 1977 and authorizes therefor $267 million for essential health, education, and other public services; provides new demonstration authority to address the social, economic and environmental effects of expanded energy production;

Extends the highway portion of the program until September 30, 1981 to facilitate completion of the Appalachian Development Highway System and authorizes therefor $1.02 billion;

Gives the Regional Commissions authorized by Title V of the Public Works and Economic Development Act of 1965 statutory status comparable to that enjoyed for the past decade by the Appalachian Regional Commission;

Extends Title V of the Public Works and Economic Development Act for one year beyond its present expiration date of June 30, 1976 and authorizes a total of $500 million for fiscal year 1976, the transition period and 1977; provides that such funds shall be apportioned among the seven regional commissions on a percentage formula based on equality, land area, population and per capita income; and contains other provisions. H.R. 4073. P/H May 19, 1975; P/S amended July 17, 1975. (295)

Bank acquisitions: Amends the Bank Holding Company Act of 1956, as amended, to allow the Federal Reserve Board to shorten the time requirements for notice to the respective primary bank supervisory authority from 30 days to 10 days if it finds that an emergency exists requiring expeditious action to prevent a probable failure of a bank or bank holding company, and shortens from 30 days to 5 days the Justice Department's period for comment on such acquisitions except that all notice requirements may be dispensed with if the Board needs to act immediately. S. 2209. P/S July 30, 1975. (VV)

Commodity futures: Extends for 90 days the following provisions of the Commodity Futures Trading Act of 1974 (Public Law 93–463) which becomes effective April 21, 1975: provisional designation as a contract market to any board of trade for commodities traded thereon; required Commission approval of contract market bylaws and rules; provisions and eventual permanent registration of any futures commission merchant, floor broker, associated person, commodity trading advisor, or commodity pool operator; and amends the Act to provide that the Commission will have 9 months instead of 6 months to determine whether trading by floor brokers and futures commission merchants for their own accounts and for their customers at the same time is permitted; provides the Commission 180 days instead of 90 days to define bona fide hedgling transactions or positions; and delays the effective date to 15 months instead of 1 year of the provisions for handling customers' complaints. H.J. Res. 335. Public Law 94–16, approved Apr. 16, 1975. (VV)

Council on International Economic Policy: Authorizes $400,000 for the period July 1–September 30, 1975, for the Council on International Economic Policy which as part of the Executive Office, brings the views of the various Federal agencies on international economic policy to the attention of the President and represents the Administration on these issues with Congress and the public. S.J. Res. 97. P/S June 21, 1975. (VV)

Authorizes $1,657,000 for fiscal year 1976 and $1,670,000 for fiscal year 1977 for the Council on International Economic Policy and provides that the staff of the Council shall be appointed without regard to provisions of law relating to employment and compensation of persons in Government service with supergrade positions limited to 8. H.R. 5884. Public Law 94–87, approved August 9, 1975. (VV)

Council on Wage and Price Stability: Extends from August 15, 1975 to September 30, 1977 the expiration date of the Council on Wage and Price Stability, which was established on August 24, 1974 to monitor wage and price developments in the private economy, to review the inflationary impact of governmental programs and policies, and to recommend measures for containing inflation;

Provides for Senate confirmation of persons appointed as director of the Council in the future;

Gives the Council authority to require periodic information reports and subpena power regarding witnesses and the production of relevant books and other documents relating to wages, prices, costs, profits, and productivity by product line or by such other categories as the Council may prescribe; and contains other provisions. S. 409. Public Law 94–78, approved August 9, 1975. (167)

Duty suspensions

Dyeing and tanning materials: Extends from September 30, 1975 to June 30, 1978 the existing suspension of duties on certain dyeing and tanning materials entered or withdrawn from warehouse for consumption after September 30, 1975. H.R. 7715. Public Law 94, approved 1975. (VV)

Graphite—child care staffing—alcoholism and narcotic treatment: Suspends the duty on natural graphite until June 30, 1978; delays until January 31, 1976, enforcement of the child care staffing requirements of the Social Services Amendments of 1974, which became effective October 1, 1975, insofar as they apply to children between the ages of 6 weeks and 6 years; and amends title XX of the Social Security Act of 1974 to insure the observance of the confidentiality requirements of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970; to insure that the entire alcohol rehabilitation program be considered as one unit in determining whether medical costs or room and board costs are a subordinate part of the total cost of service funded; and to exempt until January 31, 1976, the initial detoxification process up to a period of 7 days if such process is deemed to be an integral part to the provision of further service. H.R. 7706. Public Law 94, approved 1975. (VV)

Hopper cars: Suspends until June 30, 1975, the column 1 rate of duty on open-top hopper cars exported for repairs or alterations and provides that, upon appropriate application, entries of such articles made after September 1, 1974, and before the date of enactment could be liquidated or reliquidated on a duty free basis. H.R. 7731. Public Law 94–76, approved August 8, 1975. (VV)

Istle fiber—child support funding: Extends from September 5, 1975 to June 30, 1978 the existing suspension of duty on processed istle fiber; and amends Public Law 93–647

to extend from July 1 to August 1, 1975 the effective date of the act in order to enable some 11 States to comply with the statutory child support regulations in order to receive Federal matching grants for their child support activities. H.R. 7709. Public Law 94-46, approved June 30, 1975. (VV)

Platinum and carbon: Suspends until October 31, 1975, the column 1 and column 2 rates of duty on catalysts of platinum and carbon imported for use in producing caprolactam; applies the suspension to imports of such catalysts entered or withdrawn from warehouse for consumption on or after the date of enactment; and provides for retroactive duty suspension on entries or withdrawals after October 1, 1973, upon appropriate requests filed with the customs officer concerned within 120 days after the date of enactment. H.R. 7728. Public Law 94-75, approved August 8, 1975. (VV)

Watches—child support funding: Suspends the duty on watches and watch movements manufactured in any insular possession of the United States by increasing to 70 percent the value of foreign materials contained in such watches and watch movements effective with articles entered or withdrawn from warehouse after the date of enactment; and amends the child support law which becomes effective August 1, 1975 to protect States whose legislatures have not yet had time to meet the new requirements in order to receive Federal matching grants for their child support activities and to protect assistance recipients from a reduction in income. H.R. 7710. Public Law 94-88, approved August 9, 1975. (VV)

Zinc—copper: Suspends until June 30, 1978 the column 1 rates of duty on certain forms of zinc entered or withdrawn from warehouse for consumption on or after the date of enactment; and continues until June 30, 1978, the suspension of duties on copper waste and scrap, articles of copper and other metal waste and scrap. H.R. 7716. Public Law 94-89, approved August 9, 1975. (VV)

Lower interest rates: States the sense of the Congress that the Federal Reserve Board and the Federal Open Market Committee (1) pursue policies in the first half of 1975 so as to encourage lower long term interest rates and expansion in the monetary and credit aggregates appropriate to facilitating prompt economic recovery and (2) maintain long-run growth of the monetary and credit aggregates commensurate with the economy's long-run potential to increase production so as to promote effectively the goals of maximum employment, stable prices and moderate long-term interest rates; and provides for semiannual oversight hearings by the House and Senate Banking committees wherein the Board of Governors of the Federal Reserve System and the Open Market Committee will consult with Congress with respect to the ranges of growth or diminution of monetary and credit aggregates in the upcoming 12 months. H. Con. Res. 133. House adopted Mar. 4, 1975; Senate adopted amended Mar. 17, 1975; Senate agreed to conference report Mar. 20, 1975; House agreed to conference report Mar. 24, 1975. (65)

National Commission on Supplies and Shortages: Amends section 720 of the Defense Production Act which created a National Commission on Supplies and Shortages to assure that certain conflict of interest provisions shall not apply to members appointed to the Commission from the private sector; extends from March 1, 1975, to June 30, 1975, the time in which the Commission must submit its report to the President and Congress with respect to institutional adjustments and from June 30, 1975, to December 31, 1975, the time for the Commission to prepare, publish and transmit such other reports it deems appropriate; provides that the $75,000 authorization for the advisory committee shall remain available until December 31, 1975; and extends the $500,000 authorization for the Commission from June 30, 1975, until December 31, 1975. S.J. Res. 27. P/S Feb. 5, 1975. (VV)

Amends section 720 of the Defense Production Act which created a National Commission on Supplies and Shortages to extend from March 1, 1975, to June 30, 1975, the time in which the Commission must submit its report to the President and Congress with respect to institutional adjustments and from June 30, 1975, to December 31, 1975, the time for the Commission to prepare, publish and transmit such other reports it deems appropriate: provides that the $75,000 authorization for the advisory committee shall remain available until December 31, 1975; and extends the $500,000 authorization for the Commission from June 30, 1975, until December 31, 1975. S.J. Res. 48. Public Law 94-9, approved Mar. 21, 1975. (VV)

Amends section 720 of the Defense Production Act which created a National Commission on Supplies and Shortages to extend to March 31, 1976, the time in which the Commission must submit its report to the President and Congress with respect to institutional adjustments and to October 1, 1976 the time for the Commission to prepare, publish and transmit such other reports it deems appropriate; provides that the $75,000 authorization for the advisory committee shall remain available until October 1, 1976; and extends the $500,000 authorization for the Commission until October 1, 1976. H.J. Res. 560. Public Law 94-72, approved August 5, 1975. (VV)

National insurance development program: Extends the National Insurance Development Program, which would expire on April 30, for an additional 2 years so as to maintain the Federal Riot Reinsurance Program which reinsures the general property insurance business against the peril of riot and the Federal Crime Insurance Program which provides basic crime insurance coverage in States where it is needed. H.R. 2783. Public Law 94-13, approved April 8. 1975. (VV)

Public debt limit increase: Increases the debt limit by $131 billion for a total temporary and permanent debt limit of $531 billion until June 30, 1975. H.R. 2634. Public Law 94-3, approved February 19, 1975. (10)

Increase the debt limit by $46 billion for a total temporary and permanent debt limit of $577 billion until November 15, 1975. H.R. 8030. Public Law 94-47, approved June 30, 1975. (256)

Repatriated U.S. citizens—SSI recipient food stamp eligibility: Makes permanent the authority under section 1113 of the Social Security Act permitting the Secretary of Health, Education, and Welfare to provide temporary assistance to American citizens and their dependents who have been repatriated from foreign countries and limits the authorization to $8 million through September 30, 1976, and $300,000 for each subsequent fiscal year; and amends Public Law 93-233 to extend for an additional 12 month period, through June 30, 1976, the provision which makes needy, aged, blind and disabled people qualifying for benefits under the SSI program eligible to participate in the Food Stamp program. H.R. 6698. Public Law 94-44, approved June 28, 1975. (VV)

Savings and loan associations: Amends the Homeowners' Loan Act of 1933, as amended, to clarify section 5(c) of the Act to provide that Federally chartered saving and loan associations may act as custodians for Individual Retirement Accounts (IRA's) authorized pursuant to Public Law 93-406, the Employee Retirement Income Security Act of 1974. S.J. Res. 102. Public Law 94-60, approved July 25, 1975. (VV)

Securities acts amendments: Amends the Exchange Act, Securities Investor Protection Act, Investment Advisers Act, and Investment Company Act to make changes in the structure and regulation of the securities industry as follows:

National Securities Market System: Grants the Securities and Exchange Commission (SEC) broad, discretionary powers to oversee the development of a national market system encompassing all segments of the corporate securities markets including common and preferred stocks, bonds, debentures, warrants and options in order to provide greater investor protection and maintain a strong capital raising and allocating system; encourages maximum reliance on communication and data processing equipment consistent with justifiable costs and grants the SEC broad authority over the processing and distribution of market information; sets as a goal the establishment of trading rules and procedures for auction trading, trading in unlisted securities, and third market trading;

Self-Regulation and SEC Oversight: Consolidates and expands SEC oversight powers with respect to the self-regulatory exchange organizations, their members, and officers; confers upon the District courts the jurisdiction to command compliance with the act; clarifies the rule-making powers of SEC; and provides for judicial review of SEC actions in an appropriate court of appeals;

Municipal Securities: Extends Federal regulation to brokers and dealers trading exclusively in tax-exempt State and local bonds thus removing their exemption from the provisions of the Exchange Act; vests the ultimate authority and responsibility for the regulation of the municipal securities industry in SEC with the rulemaking responsibilities vested in a new self-regulatory agency, the Municipal Securities Rulemaking Board;

Clearing Agencies and Transfer Agents: Establishes a system for the development of an integrated national system for clearance and settlement of stock transactions in interstate commerce; centralizes in the SEC the authority and responsibility to regulate, coordinate and direct the operations of all persons involved in the securities handling process, and requires registration and reporting by clearing agencies and transfer agents; and empowers the SEC to review and amend the rules of such entities;

Securities Trading by Members of a National Securities Exchange: Prohibits stock exchange members from effecting any transaction on the exchange for its own account, the account of an associated person, or an account with respect to which the member or an associated person exercised investment discretion; provides exemptions from this prohibition for certain types of transactions which contribute to the fairness and orderliness of exchange markets or which have not given rise to serious problems, such as transactions by market makers, including specialists and block positions, bona fide arbitrage transactions, transactions for a member's own account and transactions for the account or estate of a natural person or a trust created by a natural person for himself or another person; authorizes the SEC to exempt any other transaction which is consistent with the purposes of these provisions and also to regulate or prohibit the exchange transactions which are specifically exempted; authorizes the SEC to extend the broad prohibition against the combination of money management and brokerage to the over-the-counter market to maintain fair and orderly markets, assure equal regulation or to protect investors; and provides for a 3-year phase-in of these provisions following the date of enactment for exchange members who were members on May 1, 1975;

Commission rates: Prohibits fixed commission rates after the date of enactment except that rates charged by members acting as brokers on the floor of an exchange for other members or as an odd-lot dealer may be fixed until May 1, 1976; permits the SEC to reimpose fixed rates, by rule, prior to November 1, 1976, and provides a procedure for

continuing or reimposing fixed rates after that date;

Institutional disclosure: Authorizes the Commission to require the disclosure of certain institutional portfolio holdings and transactions:

And contains other provisions. S. 249. Public Law 94–29, approved June 4, 1975. (VV)

Social security—medicaid: Makes permanent the temporary provision of law authorizing disregard of the 1972 social security increase in regard to medicaid eligibility, thus protecting the medicaid eligibility of those who would otherwise lose their eligibility because of the 1972 increase; and gives Puerto Rico, the Virgin Islands, and Guam, which deliver care to medically indigent people through their public health care systems, a permanent exemption from the freedom of choice requirement for obtaining medical services in order to alleviate the costs connected with private services. H.R. 8109. Public Law 94–48, approved July 1, 1975. (VV)

Stock transfer taxes: Amends section 28(d) of the Securities Act of 1934 to restore to a State or political subdivision the ability to impose a transfer tax where the basis of the tax is the transfer and issuance of a new certificate by a registered transfer agent, and makes clear that such taxes cannot be imposed on transfer agents that transfer record ownership of securities by bookkeeping entry without physical issuance of securities certificates. S. 2136. P/S July 30, 1975. (VV)

Tax rebate—State taxation: Clarifies the intent of the Senate that the tax rebates provided under the Tax Reduction act of 1975 (Public Law 94–12) are not subject to State income tax. S. Res. 158. Senate adopted June 9, 1975. (VV)

Tax reduction: Amends the Internal Revenue Code of 1954 for a $22.8 billion net tax reduction as follows:

INDIVIDUAL TAXES

1974 Tax Rebate: Provides a refund on 1974 tax liability to be paid in one installment within 45 to 60 days equal to 10 percent, ranging from $100 (or the amount of taxes paid if less than $100) to a maximum of $200 on an adjusted gross income of $20,000 which is scaled down to $100 when income reaches $30,000 and over;

1975 Standard Deduction: Increases the low income allowance on minimum standard deductions from $1,300 for single and joint returns to $1,600 for single and $1,900 for joint returns; increases the regular standard deduction to 16 percent of adjusted gross income up to a maximum of $2,300 for single and $2,600 for joint returns;

1975 Personal Exemption Credit: Provides a $30 tax credit for each member of the family in addition to the $750 personal exemptions;

1975 Earned Income Credit or Work Bonus: Provides a refundable credit of 10 percent of earned income up to a maximum of $400 to families with dependent children with a phase-out to zero when income rises from $4,000 to $8,000;

1975 Home Purchase Tax Credit: Provides a 5 percent credit against tax liability up to a maximum of $2,000 for individuals purchasing a newly constructed home including a mobile home, provided it was built or under construction by March 25, 1975;

Cash Payment to Social Security Recipients: Provides a one-time $50 cash payment from the Treasury at the earliest practicable date to each recipient of Social Security, railroad retirement, or Supplemental Security Income benefits;

BUSINESS TAXES

1975–76 Investment Tax Credit: Increases the investment tax credit rate to 10 percent for taxpayers, including public utilities; provides an additional 1 percent and requires compliance with investments of $10 million or more to use the 1 percent savings for an employee stock ownership plan; increases from $50,000 to $100,000 the cost of used property qualifying for the credit; for public utilities increases the amount of tax liability that may be offset in a year to 100 percent for a two year period which is reduced back to 50 percent over the next 5 years;

Depletion Allowance: Repeals the 22 percent depletion allowance for major oil and natural gas producers; retains the 22 percent depletion allowance for independent companies, who do not have retail outlets, on a daily maximum of 2,000 barrels of oil or 12 million cubic feet of natural gas which is phased down to 1,000 barrels or 6 million cubic feet of gas by 1980 and to a 15 percent depletion allowance on the first 1,000 barrels of 6 million cubic feet by 1984:

Foreign Source Income: Provides that the foreign tax credit for foreign oil and gas extraction income is limited to 10 percent above the normal U.S. tax rate for 1975, 5 percent for 1976 and 2 percent for 1977; provides that excess credits cannot be claimed as a credit only against foreign oil related income including interest and dividends; eliminates tax deferral for certain specified types of "tax-haven" income of multinational corporations provided it exceeds 10 percent of gross income; limit tax deferral for shipping income received by a foreign subsidiary to reinvestment in shipping operations only; ends the deferral for certain income earned abroad but reinvested in a less-developed country; repeals the "per-country" limitation for oil and gas related income; eliminates foreign tax credit for payments made to a sovereign government for the purchase of oil where the taxpayer has no economic interest in oil in place and buys or sells such oil at other than the market price; denies DISC (Domestic International Sales Corporation) benefits for the export of natural resouces for scarce commodities; denies investment tax credit for drilling rigs used in international and territorial waters of the Southern Hemisphere;

1975 Corporate Surtax Exemption: Increases the present $25,000 surtax exemption to $50,000; provides a tax rate of 20 percent on the first $25,000, 22 percent on the next $25,000 and 48 percent on income over $50,000; increases the accumulated earnings tax from $100,000 to $150,000;

Federal Welfare Recipients Employment Incentive (W.I.N.) Tax Credit: Allows employers to hire a Federal welfare recipient for more than 30 days and obtain a tax credit equal to 20 percent of wages not to exceed $1,000 per individual, until July 1, 1976;

MISCELLANEOUS

Extends unemployment compensation for those eligible under 1974 Emergency Unemployment Act for an additional 3 months to June 30, 1975; allows a maximum of $4,800 in child care expenses to be deducted by families with an income up to $35,000 and phases out to zero such a deduction when income reaches $44,000; extends the tax deferment period for reinvestment in residences from the current 12 months to 18 months; and contains other provisions. H.R. 2166. Public Law 94–12, approved Mar. 29, 1975 (112, 117)

EDUCATION

College work-study program funds: Permits the intrastate reallocation of funds appropriated for the College Work-Study program in cases where funds originally obligated to institutions are not needed and permits such funds to be expended in the succeeding fiscal year; extends the termination date of the National Advisory Council on Equality of Educational Opportunity from June 30, 1975 through the end of fiscal year 1976 to make it coterminous with its related program, the Emergency School Aid program; and authorizes the Commissioner to carry over into fiscal year 1976 Basic Educational Opportunity Grant funds for fiscal year 1975 which have not been paid to students entitled to such grants. H.R. 4221. Public Law 94–43, approved June 28, 1975. (VV)

Handicapped children: Amends and extends the Education of the Handicapped Act to aid in making an appropriate education available to all handicapped children; extends the present entitlement formula for payments to States through fiscal year 1976; establishes a new entitlement formula for payments in fiscal years 1977–79 which provides that the maximum amount to which a State is entitled shall be equal to $300 multiplied by the number of handicapped children, aged 3 to 21, who are receiving special education and related services in the State; assures each State a minimum base payment in each fiscal year equal to the amount it received in the previous fiscal year; provides that a State, in order to be eligible for funding, must have a "right to education" policy for all handicapped children and requires that a free appropriate public education must be made available to all handicapped children aged 3 to 18 by September 1, 1978, and to all handicapped children aged 3 to 21 by September 1, 1980, unless the application of this requirement would be inconsistent with State law or practice, or a court order; further extends the protections afforded under present law assuring handicapped children and their parents of procedural safeguards in any decisions affecting the education of the children by providing for an individualized planning conference which is to be held a minimum of three times a year with the parents, an education agency representative, the teacher, and when appropriate, the child, to be present for the purposes of developing and reviewing a written statement of the educational program for the child; includes provisions designed to strengthen the administration and evaluation process provided by the Office of Education; provides that all recipients of funds under this act take affirmative action to employ handicapped individuals; gives new authority to the Commissioner of Education to make grants to State and local educational agencies for the removal of architectural barriers; and contains other provisions. S. 6. P/S June 18, 1975; P/H amended July 29, 1975; In conference. (227)

Lister Hill scholarships: Amends the Public Health Service Act to require the Secretary of Health, Education and Welfare to make grants to ten individuals a year, to be known as Lister Hill Scholars, who agree to enter into the family practice of medicine in shortage areas upon completion of their educational program, and authorizes therefor $60,000 for fiscal year 1975, $120,000 for fiscal year 1977, and $240,000 for fiscal year 1978. S. 1191. P/S June 13, 1975. (VV)

ELECTIONS

Federal Election Commission: Extends the Federal Election Commission through December 31, 1976, and increases the authorization therefor from $10 million to $15 million. S. 1434. P/S June 18, 1975; P/H amended June 19, 1975. (VV)

Federal Election Commission regulations: Disapproves the two regulations proposed by the Federal Election Commission and transmitted to the Senate on July 30 and September 30, 1975, relating to the use of office accounts and franking privileges of Federal officeholders prior to an election in which they are a candidate. S. Res. 275. Senate adopted Oct. 8, 1975. (VV)

Overseas citizens voting rights: Guarantees the right of otherwise qualified private U.S. citizens residing outside the United States to vote in Federal elections in the State of their last voting domicile; requires a citizen, voting under the bill, to state his intent to retain his prior State as his voting residence and domicile if he has not registered to vote and is not voting in any other State, terri-

tory or possession of the United States; adopts a uniform absentee registration and voting procedure including the requirement that election officials mail out balloting material as promptly as possible after receipt of a properly completed application; assures that Federal and State governments could not seek to impose taxes on a citizen which would cause him to lose any tax exemption solely on the basis of having exercised his right to register and vote absentee; and imposes a $10,000 fine and 5 years imprisonment for willfully giving false information when registering or voting absentee. S. 95. P/S May 15, 1975. (VV)

Voting rights: Amends the Voting Rights Act to provide that States or political subdivisions which the Attorney General has determined have, in 1964 or 1968 (1) maintained a literacy or other test or device as a prerequisite for voting and (2) also had a record of less than 50 percent of the voting-age population registered or less than 50 percent voting, shall be covered for an additional 7 years through August 1982 (making the total period 17 years instead of 10 years) by the special provisions which require such a state or subdivision to preclear any voting changes it wishes to make with the U.S. District Court for the District of Columbia or the Attorney General of the United States, and which authorize the appointment of Federal examiners and of Federal observers to assure nondiscrimination on account of race or color in regard to voting rights; adds provisions which apply these special provisions to States or subdivisions which the Attorney General determines are covered because of conditions existing in 1972, with a coverage period of 10 years;

Makes the temporary ban which was placed by the 1970 amendments to the Voting Rights Act of 1965 on the use of literacy tests and other similar devices a permanent prohibition applicable to all States and political subdivisions;

Expands the coverage of the act to certain jurisdictions in which language minorities reside; provides in title II, which is designed to identify areas with the most serious problems of voting rights discrimination against language minorities such as the use of various forms of intimidation to prevent their participation in voting, that (1) a jurisdiction is deemed to employ a test or device as a prerequisite to voting if it provided election materials or assistance only in English and it had more than a 5-percent citizen population of any one language group, such as American Indians, Alaskan Natives, Asian Americans, or persons of Spanish heritage, and (2) that coverage of the act will apply if that jurisdiction also had less than 50 percent of the voting-age population registered or voting; mandates bilingual elections for covered areas for a 10-year period; requires preclearance of voting changes, and authorizes the appointment of Federal examiners and of Federal observers to oversee elections; provides a bailout process which operates in the same manner as the current provision in the act whereby a State or political subdivision may exempt itself by obtaining a declaratory judgment that English-only elections or any other "test or device" has not in fact been used in a discriminatory fashion against language minorities and other racial and ethnic groups for the 10 years preceding the filing of action; addresses in title III the problems of language minority groups in participating in the voting process which are caused by the lack of equal educational opportunities and illiteracy; brings a State or political subdivision under coverage of title III if a single language minority comprises 5 percent of the voting-age population and if the illiteracy rate of that group is greater than the national average; defines illiteracy for the purposes of this title as failing to complete the fifth primary grade, which is the level at which a minimum comprehension in English ordinarily would be achieved; provides a limited remedy for protected classes by requiring that the covered jurisdiction provide bilingual election materials and information in the language of the applicable minority group or groups; provides that a jurisdiction may be removed from coverage if it shows that the illiteracy rate of the language minority which triggered coverage has dropped below the national average, which it may do either by using Census Bureau data or by any reliable or valid survey;

Amends the act to permit private persons as well as the Attorney General to bring suit under the act and to allow a court to grant relief to private parties by suspending the use of literacy and other tests and devices, to impose preclearance restrictions and to appoint Federal examiners as it now may do in cases brought by the Attorney General: authorizes payment of attorney's fees to prevailing parties; and contains other provisions. H.R. 6219. Public Law 94–73, approved August 6, 1975. (329)

EMPLOYMENT

Public works employment: Amends the Public Works and Economic Development Act of 1965 to provide $2.125 billion for anti-recessionary public works authorization for fiscal year 1976, including (1) $1 billion under Title I for grants to State and local governments for public works projects in the following order of priority: (a) projects inactive because the applicant is unable to provide the local matching share, (b) projects halted after approval because inflation has pushed total project costs beyond the ability or willingness of agencies to provide the Federal share, and (c) projects initiated by State and local governments without other Federal financial participation; (2) a $125 million increase for working capital loans under the Economic Development Administration's business development program to prevent the loss of jobs in the private sector; and (3) $1 billion for the Job Opportunities Program to accelerate the job-creating impact of various Federal, State and local programs; limits the available authority to obligate funds for Title I grants and for the Title X Job Opportunities Program when the national unemployment rate declines below 9 percent during the most recent calendar quarter by reducing the authority to obligate by one-fourth, up to $500 million, for each one-half of one percent by which the rate declines below 9 percent;

Provides a new formula for allocation to States of approximately $9 billion in previously impounded water pollution control funds for construction of waste treatment facilities which is based 50 percent on population and 50 percent on need instead of on relative State need only;

Authorizes appropriations for financial assistance to State and local governments when the national seasonally adjusted unemployment rate exceeds 6 percent in the amount of $125 million per calendar quarter plus $62.5 million multiplied by the number of one-half percentage points by which the seasonally adjusted national rate exceeds 6 percent; authorizes assistance from these amounts to States and local governments based upon their unemployment rate and level of tax revenue, as measures of recessionary impact and the level of services provided; and contains other provisions. H.R. 5247. P/H May 20, 1975; P/S amended July 29, 1975. (348)

Railroad improvement and employment: Creates a supplemental public service employment program to accelerate the repair and rehabilitation of railroad roadbed and facilities which are essential to national transportation needs; authorizes $600 million to the Secretary of Transportation to make grants to States, local transportation authorities, railroads, regional commissions and similar bodies to enable them to hire persons for approved railroad roadbed and facility repair on rehabilitation projects; authorizes an additional $100 million to enable the Secretary to assist grant recipients to purchase materials or equipment for the approved projects if the recipient is financially unable to acquire materials without assistance; provides $100 million for loan guarantees for assistance in purchasing materials and equipment; and contains other provisions. S. 1730. P/S May 16, 1975. (189).

Unemployment compensation: Extends the time for payment for the additional 13 weeks of unemployment compensation authorized by the Tax Reduction Act of 1975 for the Federal Supplemental Benefits (FSB) program established by the Emergency Unemployment Compensation Act of 1974, which authorized 26 weeks, thus making a total of up to 39 weeks of benefits payable in addition to regular unemployment compensation benefits (which averages 26 weeks) through March 1, 1977;

Changes, effective January 1, 1976, the rate of insured unemployment (which is about 2 percentage points less than the actual unemployment rate) which must be reached for payment so that, instead of payment when the rate is 4 percent or more nationally or in the State for all additional weeks, payment for benefits after the first 39 weeks (26 regular weeks and 13 additional weeks) will be made for the 39th to 52nd weeks when the insured unemployment rate is between 5 and 6 percent in an individual State and payment for the 53rd to 65th week may be made when the insured unemployment rate is 6 percent or over in the individual State;

Extends the Supplemental Unemployment Assistance (SUA) benefits program (payable to unemployed people who do not qualify for unemployment compensation) established by the Emergency Jobs and Unemployment Assistance Act of 1974 to permit payments through March 31, 1977, and increases the number of benefit weeks from 26 to 39; entitles the Virgin Islands to borrow money from Federal general revenues as necessary to continue its unemployment insurance program; and contains other provisions. H.R. 6900. Public Law 94–45, approved June 30, 1975. (240,257).

Virgin Islands unemployment compensation funds—railroad retirement: Provides that certain unemployment compensation funds may be used for repayable loans not to exceed $5 million to the Virgin Islands; amends the railroad tax act so that wages will be considered to be earned as of when they are paid unless the employee requests that they be treated on the basis of when they were actually earned. H.R. 9091. Public Law 94–93, approved August 9, 1975. (VV)

ENERGY

Automobile fuel economy: Establishes, in title I, a mandatory fuel economy standards program within the Department of Transportation; directs the Secretary of Transportation to establish yearly minimum standards applicable to each manufacturer's average production of new automobiles or new light-duty trucks, as appropriate, which are to apply to model years 1977 through 1985; provides that the standards are to be set to achieve a 50-percent improvement in fuel economy for automobiles by model year 1980 over that of 1974 models, or 21 miles per gallon as opposed to 14 miles per gallon for the 1974 model average, and a 100-percent improvement for at least 28 miles per gallon by model year 1985, and authorizes the Secretary to modify these goals if necessary; provides that the Secretary set standards separately for light-duty trucks, which are not placed under the 50- and 100-percent improvement goals for automobiles; provides civil penalties for violations; requires that each new automobile and light-duty truck have attached a manufacturer-prepared

energy guide setting forth information on fuel economy and estimated annual fuel costs, and that dealers disclose estimated annual fuel costs to prospective purchasers prior to the completion of any purchase of an automobile or light-duty truck; directs the Secretary to conduct a study regarding the use of electric vehicles, including whether they should be included under this title;

Contains, in title II, provisions for an automotive research and development program within the Department of Transportation, in coordination with the Energy Research and Development Administration (ERDA), to develop production prototypes of advanced automobiles which represent the maximum practicable fuel efficiency attainable consistent with environmental, safety, and damageability requirements; in title III, establishes not more than three motor vehicle diagnostic inspection demonstration projects;

And contains other provisions. S. 1883. P/S July 15, 1975. Note: (Provisions contained in S. 622, Standby Energy Authority.) (285)

Coal leasing—strip mining: Makes basic changes in the Mineral Leasing Act of 1920 governing leasing of Federally owned coal which constitutes almost 50 percent of the recoverable coal reserves in the United States; provides that all leasing shall be done under a 5-year program to be developed by the Secretary of the Interior and designed to meet national needs for Federal coal in a manner consistent with (a) timely and orderly development of Federal coal resources, (b) environmental protection, and (c) receipt of fair market value for public resources; provides that leases may be issued only by competitive bidding on either a royalty or bonus bidding basis in order to permit a wider opportunity for competition for Federal coal leases;

Requires the preparation of land use plans where the United States owns both the surface and subsurface prior to sale of leases, and provides that, in cases where the surface is not Federally owned, no lease sale shall be held if the Secretary determines that development of such coal deposits would be inconsistent with any applicable State or local land use plan except where the Secretary finds that such development would be in the national interest;

Eliminates prospecting permits and preference right leases to prospectors as no longer appropriate or necessary since considerable information has been accumulated since 1920 about Federal coal resources which provides an adequate basis for leasing decisions; provides that coal leases shall be for a specified term of 20 years and so long thereafter as coal is produced instead of for indeterminant periods dependent upon diligent production as at present; requires a lessee, within 3 years after obtaining a coal lease and before significant environmental disturbance, to formulate and submit for approval a development plan which must show the work to be done, the manner of extraction, how applicable environmental and health and safety standards are to be met as well as reclamation standards set out in it title II;

Increases by 22½ percent (from 37½ to 60 percent) the share of lease revenues to the State in which the lease is located and specifies that the additional 22½ percent amount shall be used for planning, construction and maintenance of public facilities, and provision of public services in those areas suffering impact problems as a result of energy development;

In title II, the Federal Lands Surface Mining Control and Reclamation Act of 1975, applies to Federal lands and Federal coal the basic surface coal mining and reclamation standards of the recently-vetoed strip mining bill (H.R. 25); requires the Secretary to issue regulations for a Federal program implementing this Act; requires after enactment of this Act that persons wishing to conduct any surface mining operations on Federal lands must obtain a permit from the Secretary; specifies the permit application information that must be given to demonstrate that the environmental protection provisions of this Act can be met, which includes submission of a reclamation plan; provides for the giving of public notice and the holding of public hearings in regard to an application; and contains other provisions. S. 391. P/S July 31, 1975. (364)

Coastal Zone Management: Amends the Coastal Zone Management Act to assist States facing Outer Continental Shelf (OCS) oil and gas development or other energy-related developments and facilities affecting the coastal zone; provides assistance in the form of grants or loans to coastal States from a new coastal energy facility impact fund, which is to be available to States receiving or anticipating impacts in their coastal zone from the exploration, development, and production of energy resources, or from the location, construction, expansion or operation of any energy facility requiring a Federal license or permit; authorizes moneys for the fund at $250 million per year for 3 fiscal years and the 1976 transition period; provides that up to 20 percent of the moneys may be used for planning grants with the balance to be used for efforts to reduce or ameliorate adverse impacts from energy exploration and development or to provide public facilities and services necessitated by such activity; requires as a condition of eligibility to provide public facilities and services necessitated by such activity; requires as a condition of eligbility for assistance from the fund that the State must participate in a coastal zone management program and must experience or anticipate a temporary or net adverse impact or have experienced an adverse impact within the 3 years prior to enactment; authorizes automatic grants payable from the General Treasury to any State where OCS oil or natural gas is being directly landed (brought ashore); provides a Federal guarantee for State or local government bonds issued to pay for measures needed to reduce adverse coastal impacts; contains provisions to clarify that Federal leases must be consistent with approved coastal zone management programs of the affected States; raises the Federal share for coastal zone management funding from 66⅔ percent to 80 percent; amends the Mineral Leasing Act of 1920 to increase from 37½ percent to 60 percent the amounts returned to the States as reclamation funds from royalties paid to the Federal Government by mining companies extracting federally-owned minerals; and contains other provisions. S. 586. P/S July 16, 1975. Note: (Impact fund provisions are also contained in S. 521, Outer Continental Shelf Management.) (291)

*Emergency petroleum allocation: Extends the Emergency Petroleum Allocation Act, which contains the only presently existing authority for allocation and price control of oil, from August 31, 1975 to March 1, 1976; extends the authority of the Federal Energy Administration (FEA) under the Energy Supply and Environmental Coordination Act to require electric powerplants and major industrial facilities with the capability to utilize coal to convert from oil and natural gas to coal from June 30, 1975 to December 31, 1975; and requires the FEA to include in its quarterly energy information reports information on pricing and related developments in the coal industry and any other major energy industries not subject to Federal price regulation. S. 1849. Vetoed Sept. 9, 1975. Senate sustained Sept. 10, 1975. Note: (Provisions contained in H.R. 4035, Oil Pricing, which was vetoed on July 21, 1975.) (281,388)

Extends the Emergency Petroleum Allocation Act (containing price control and allocation authority) until November 15 and suspends the President's authority under section 4(g)(2) to send Congress a plan which would institute a major change in the petroleum pricing policy until November 1. H.R. 9524. Public Law 94–99, approved Sept. 29, 1975. (421)

Energy labeling and disclosure: Amends the Federal Trade Commission Act to require that the energy characteristics and estimated annual operating costs of major energy-consuming household products and automobiles be disclosed to consumers prior to purchase so that consumers can readily compare and avoid buying products which unnecessarily waste energy;

Requires each manufacturer or importer of major energy-consuming household products and automobiles to include the estimated annual operating cost data and an appliance energy guide or an automobile energy guide as part of the material shipped with each product or automobile to suppliers; prohibits car dealers from selling any new automobile without disclosing the estimated annual operating cost to the buyer prior to sale; contains provisions regarding advertising; authorizes the Administrator of the Federal Energy Administration and the Federal Trade Commission to carry out a consumer education program with respect to annual operating costs, appliance and automobile energy guides, and the need for energy conservation; and contains other provisions. S. 349. P/S July 11, 1975. Note: (Provisions contained in S. 622, Standby Energy Authority.) (275)

Energy supply—clean air: Extends from June 30, 1975, until December 31, 1975, the Federal coal conversion under the Energy Supply and Environmental Coordination Act of 1974 (Public Law 93–319). S. 2337. P/S Sept. 19, 1975. (VV)

ERDA authorization: Authorizes $4,736,-200,000 for fiscal year 1976 and $1,242,300,000 for the transition period July 1—September 30, 1976, for the Energy Research and Development Administration (ERDA) which was established by the Energy Reorganization Act of 1974 and is responsible for the nuclear programs formerly administered by the Atomic Energy Commission and which also has the leadership role in implementing nonnuclear energy research programs; includes, among the nuclear programs funded: basic physical research; fusion research; fission research; including the development of advanced reactors which will permit increased utilization of nuclear fuel resources—uranium and thorium; a nuclear materials program to assure a sufficient supply of enriched uranium to fuel civilian power reactors; a national security program to enable continued maintenance of a nuclear weapons capability; and environmental and safety research, which also includes work on the artificial heart and nuclear medicine; includes among the nonnuclear programs funded: fossil energy development programs in coal, oil and gas, and oil shale research and development; fusion, solar and geothermal energy programs; and advanced energy systems research programs; authorizes actions to accelerate demonstration projects in oil shale recovery and in the commercial-scale recovery of synthetic fuels from coal, oil shale, and nonconventional energy sources; and authorizes ERDA to establish a Federal loan guarantee program to stimulate commercial synthetic fuel enterprises. H.R. 3474. P/H June 20, 1975; P/S amended July 31, 1975; In conference. (371)

International Petroleum Exposition: Authorizes the President to invite the several States and foreign nations to participate in the International Petroleum Exposition at Tulsa, Oklahoma, from May 16 through May 22, 1976, for the purpose of exhibiting machinery, equipment, supplies, and other products used in the production and marketing

of oil and gas, and bringing together buyers and sellers for the promotion of foreign and domestic trade and commerce in such products. S.J. Res. 59. P/S May 13, 1975. (VV)

Naval petroleum and strategic energy reserves: Amends chapter 64, title 10 United States Code to provide for the full exploration and development of the naval petroleum reserves and to permit limited production of Naval Petroleum Reserves 1—Elk Hills, No. 2—Buena Vista, and No. 3—Teapot Dome under the authority of the Secretary of the Navy;

Defines "national defense" for the purposes of permitting such production in terms broad enough to permit production to partially offset a situation such as the Arab embargo of 1973; provides that production will not exceed the maximum efficient rate determined in accordance with sound oilfield engineering practices or 350,000 barrels per day whichever is less; limits production to 5 years; makes production at Elk Hills contingent upon the Secretary reaching a binding agreement with Standard Oil Company of California, which owns approximately 20 percent of Elk Hills field that would protect the public interest; authorizes the President to direct that oil produced under the provisions of this act be placed in a strategic reserve as authorized by law;

Waives, for the period of production, the requirement that the Secretary consult with the Congress on every contract; retains the requirement that the sale of all production be by competitive bidding; establishes a special account in the Treasury to permit an accurate accounting for accomplishment of the purposes of this legislation, which includes operation of the naval reserves on a self-sustaining basis; requires the Administrator of the Federal Energy Administration to submit a written report within 180 days after enactment recommending procedures for the exploration, development and production of Reserve No. 4 in Alaska;

Contains provisions identical to the Strategic Energy Reserves Act of 1975 which the Senate passed on July 8, 1975 and which provides for the establishment of national federally owned oil reserves, regional petroleum reserves, and interim industry reserves under the management of the Federal Energy Administration; and contains other provisions. H.R. 49 (S. 2173). P/H July 8, 1975; P/S amended July 29, 1975; In Conference. (342)

*Oil import fees: Suspends for the 90-day period beginning on the date of enactment any authority the President might have to adjust imports of petroleum and petroleum products; negates any Presidential action to adjust petroleum imports taken after January 15, 1975, and before the date of enactment, and also provides for the rebate of any duties or import fees or taxes levied and collected pursuant to any such action; provides that the suspension of this authority will cease if at any time during the 90-day period war is declared, a national emergency occurs, or certain situations involving the commitment of U.S. Armed Forces arise; and provides that the import license fee system on petroleum and petroleum products which the provisions of this bill provide shall not affect the import license fee system on petroleum and petroleum products which was in effect on January 15, 1975. H.R. 1767. Vetoed Mar. 4, 1975. House referred to Ways and Means Committee Mar. 11, 1975. (13)

*Oil pricing: Makes more effective the mechanism in existing law for congressional review and right of disapproval of Presidential proposals to exempt petroleum products from the allocation or pricing controls currently in effect under the Emergency Petroleum Allocation Act of 1973;

Expands the time for congressional review from 5 to 20 days and contains procedures for expediting review to assure that the question of approval or disapproval can be brought to the floor of either House within the 20-day review period;

Requires the President to administratively establish price controls for presently noncontrolled "new oil" (oil produced at levels above the 1972 volumes) with price ceilings no higher than the January 31, 1975 prevailing prices (which averaged $11.28 per barrel on a national basis); does not make this authority subject to congressional review unless the proposal would bring the price over this maximum ceiling;

Provides for congressional review of any proposal to permit the price of presently controlled "old oil" (oil from properties producing at, or less than, their 1972 production levels) to increase substantially above its national average price of $5.25; grants specific authority to alter present price controls to allow a price incentive to take account of natural declines in field production and to encourage the most costly use of secondary and tertiary recovery methods where the costs are significantly greater than the regular methods; requires congressional review only where the total incentives are of such a magnitude as to cause an increase in excess of 50 cents per barrel in the national average price of "old" crude oil;

Extends the Emergency Petroleum Allocation Act, which contains the only presently existing authority for price control and allocation of crude oil and petroleum products, from August 31 to December 31, 1975; extends the authority under the Energy Supply and Coordination Act of the Federal Energy Administration to issue coal conversion orders requiring facilities using oil or gas to convert to coal and the authority under that act to gather energy data from June 30 to December 31, 1975;

Provides a limited exemption for small refiners from the crude oil entitlements program in effect under current Federal Energy Administration regulations;

And contains other provisions. H.R. 4035. Vetoed July 21, 1975. House referred to Intrastate and Foreign Commerce Committee July 23, 1975. (161,287)

Oil shale revenues: Amends the Mineral Leasing Act of 1920 to permit each State, after January 1, 1974, to use its share of oil shale revenues for planning, construction and maintenance of public facilities, and provision of public services. S. 834. P/S Apr. 22, 1975. (VV)

Outer Continental Shelf management: Amends the Outer Continental Shelf Lands Act of 1953 for the purpose of increasing production of oil and gas from the Outer Continental Shelf (OCS) in a manner which assures orderly resource development, protection of the environment, and receipt of fair market return for public resources and encourages development of new technology to increase human safety and eliminate or reduce environmental damage;

Directs the Secretary of the Interior to prepare a comprehensive advance planning program for leasing which would indicate the size, timing, and location of leasing activity which the Secretary believes would meet national energy needs over the next 5 years;

Contains provisions giving States and local governments and the general public a significant opportunity to participate in and comment on Federal OCS planning and policy decisions which include authorization for the Governors of coastal States to establish a regional OCS advisory board which would advise the Secretary on all matters related to OCS oil;

Contains provisions identical to the new coastal zone impact fund provisions contained in the Coastal Zone Management Act Amendments which passed the Senate on July 16, 1975, which amend the Act and establish a new coastal zone impact fund to assist coastal States in ameliorating adverse environmental impacts and controlling secondary economic and social impacts associated with OCS oil and gas development;

Requires a Federal lessee who finds oil and gas to prepare and submit to the Secretary, the Governors of affected coastal States and any regional OCS advisory board a development and production plan in order to give them an opportunity for review and to permit the coastal States to assess the potential impacts of the development and to resolve any problems with the Secretary and the lessee before they occur;

Directs the Secretary to conduct a survey of oil and gas resources of the OCS; authorizes the Secretary to conduct or contract for exploratory activities in order to obtain more information about the oil and gas resources on the OCS and for exploratory drilling on an experimental basis when needed for national security, environmental reasons, or to expedite development in frontier areas;

Puts into law the existing rule, established by Departmental regulation, that an OCS lessee is liable for the total cost of control and removal of spilled oil; creates a new strict liability rule for damages from OCS oil spills which imposes damage liability, except for acts of war, without regard to fault or to the ownership of the land or resource damaged if the land or resource is relied on for subsistence or economic purposes; makes the lessee or holder of a right of way liable for the first $22 million and the Offshore Oil Pollution Settlement Fund, created by the Act, liable for the balance; finances the fund by placing a fee of 2½ cents per barrel on oil produced from the OCS;

Requires any person holding a geological or geophysical exploration permit to submit to the government the data and information, including interpretive data, obtained during exploration, which would be kept confidential unless the Secretary determined that public availability of the data would not damage the competitive position of the permittee or lessee; directs the Secretary to establish safety and performance standards for all pieces of equipment pertinent to public health, safety or environmental protection;

Authorizes a wide variety of new bidding systems in addition to the cash bonus fixed royalty system which has been the historical method of OCS bidding; provides clear authority for the Federal government to take oil or natural gas royalties in kind and dispose of them in a manner to alleviate shortages; requires environmental baseline and monitoring studies before oil and gas drilling can begin on any OCS area not previously leased; increases criminal penalties for certain willful violations of the Act and imposes civil liability for violations which continue after notice and opportunity to correct violations; contains provisions designed to promote Federal interagency coordination and directs coordination with State and local government agencies;

Increases to 60 percent the amount given to States from Federal mineral revenues derived under the Mineral Leasing Act of 1920 from coal, oil shale, oil and gas, and other public land mineral development, and provides that this additional amount shall be used by States socially or economically impacted by this development for planning, construction and maintenance of public facilities, and provision of public services; and contains other provisions. S. 521. P/S July 30, 1975. (362)

Petroleum products fair marketing: Prohibits the termination, cancellation, or nonrenewal of a petroleum products franchise unless the affected franchise failed to comply substantially with any essential and reasonable requirement of the franchise, failed to act in good faith in carrying out the terms of the franchise, or the supplier withdraws entirely from the sale of petroleum products in commerce; provides that a civil action may be brought against a distributor or re-

finer who is in violation of the act within 3 years of the date a termination or cancellation notice is rendered; and limits, on an equal basis, marketing activities of all major oil companies to restrict the expansion of distribution and retaining operations with personnel under their direct control. S. 323. P/S June 20, 1975. (VV)

Standby energy authority: Grants the President authority to ration fuels in the event of an acute energy shortage subject to congressional review and right of disapproval; authorizes the President to allocate materials and equipment for energy production if a critical shortage occurs; authorizes the President to (1) require production of designated domestic oil and gas fields at the maximum efficient rate and over that rate for a period of 90 days if he determines that the condition of a reservoir permits such production without excessive risk of losses in the later recovery of the remaining oil or gas, (2) utilize production on properties on Federal land, (3) require adjustment of processing operations of domestic refiners to produce refined products in amounts commensurate with national needs;

Authorizes priority fuel allocations to those engaged in the exploration, production and transportation of fuels and other minerals; authorizes the President to restrict exports of coal, natural gas, petroleum products, and petrochemical feedstocks, drill pipe, drilling rigs, and such supplies which he determines are necessary to further production or conservation of energy supplies;

Contains provisions for administrative procedure and judicial review; authorizes the collection of such energy information as is necessary to achieve the purposes of the above provisions; contains procedures for carrying out international voluntary energy agreements;

Extends the Emergency Petroleum Allocation Act from August 31, 1975, to March 1, 1976; makes any increases in the price of "old" oil (oil from wells existing in 1973 produced at a rate equal to 1972 production) and any proposed exemptions of crude oil, residual fuel oil, or a refined petroleum product from price controls subject to congressional review and approval; permits the pricing of oil recovered by secondary or tertiary methods up to $7.50 a barrel; sets a maximum price for "new" domestic crude oil at a level not to exceed that prevailing on January 31, 1975; exempts small refiners (100,000 barrels a day) for the first 50,000 barrels from the entitlements program under the oil allocation regulations;

Authorizes the President to institute interim energy conservation plans pending the promulgation of regulations to establish national energy conservation standards which include but are not limited to standards for: Federal buildings and for homes and buildings financed under any Federal loan guarantee or mortgage program; decorative and nonessential lighting; the increase of industrial efficiency in the use of energy; the better enforcement of the 55 mile per hour speed limit; the maximizing of use of carpools and public transportation; reasonable controls and restrictions on discretionary transportation activities; energy efficiency standards for Federal procurement; and low interest loans and loan guarantee programs to improve the thermal efficiency of individual residences;

Directs the Federal Energy Administration to issue the regulations containing the national standards, and makes such plans and standards subject to congressional review and the right of disapproval; provides for the development and implementation of approved State energy conservation programs with Federal technical and financial assistance, failing which, Federal standards shall apply;

Extends the Energy Supply and Environmental Coordination Act, which contains the Coal Conversion Act of 1974, from June 30, 1975, to December 31, 1975;

And contains other provisions. S. 622. P/S Apr. 10, 1975; P/H amended Sept. 23, 1975; Senate agreed to House amendment with amendment in the nature of a substitute embodying the provisions of the following bills as passed by the Senate: S. 622, Standby Energy Authority; S. 1883, Automobile Fuel Economy; S. 349, Energy Labeling and Disclosure; and S. 677, Strategic Energy Reserves Sept. 26, 1975; In conference. (138)

Strategic energy reserves: Provides for the creation and maintenance over a 7-year period of strategic energy reserves equal to 90 days of imports, which would place an average total of 594 million barrels in reserve and would compensate, based on the amount by which imports were reduced under the 1973–74 oil embargo, for import reduction for a period of 237 days;

Provides for the establishment and maintenance of a Strategic Energy Reserve system by the Federal Energy Administration (FEA) acting through a Strategic Energy Reserve Office within the FEA and: (1) requires the FEA to establish a national federally owned crude oil storage program, which could include storage of crude oil from Federal lands, including the naval petroleum reserves, if authorized by Congress: (2) authorizes the creation of Federally owned regional petroleum product reserves of refined petroleum products and requires that a reserve be established for any fuel in any district where more than 25 percent of the demand for fuel that has been met by imports during the preceding 24 months, which presently covers residual fuel oil, and for No. 2 fuel—home heating oil—where more than 10 percent of the demand is met by imports, these fuels being a particular supply problem in eastern coast States; (3) authorizes the FEA to require interim industry storage reserves consisting of up to 3 percent of imports or refinery throughput of the previous calendar year until the total level under the 7-year national and regional programs is reached and, thereafter, to require industry to maintain stocks in an amount equal to the average readily available inventories for the corresponding month of the 3 preceding years; (4) provides for the inclusion of such other components as Congress may authorize;

Exempts materials in the interim industry reserves from any tariffs or import license fee; authorizes the use of the reserves if petroleum imports have fallen or are within 30 days expected to fall by 10 percent or if required to do so under international agreement; provides that the Administrator is to establish price levels and allocation procedures for the oil withdrawn that are consistent with the objectives enumerated in the Emergency Petroleum Allocation Act; authorizes the FEA to adjust the processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the objectives of the Emergency Petroleum Allocation Act in the case of an embargo; and contains other provisions. S. 677. P/S July 8, 1975. Note: (Provisions contained in S. 622, Standby Energy Authority.) (263)

*Strip Mining: Establishes a program for the regulation of coal surface mining activities and the reclamation of coal mined lands in order to assure that surface coal mining operations—including exploration activities and the surface effects of underground mining—are conducted so as to prevent or minimize degradation to the environment, and that surface mining operations are not conducted where reclamation is not feasible according to the terms and conditions of the act;

Establishes the Office of Surface Mining Reclamation and Enforcement in the Department of the Interior to administer the programs for controlling surface coal mining operations, including the State programs which must be submitted for approval;

Requires the Corps of Engineers to approve the basic standards regulating mine waste disposal and review plans but with no responsibility for on-the-ground supervision and enforcement;

Establishes a fund and a program for the reclamation of abandoned mined lands and for relief of impacted areas; provides funding for such activities from reclamation fees collected at 35 cents per ton for surface mined coal, 15 cents per ton for all coal mined by underground methods or 10 percent of the value of the coal at the mine, whichever is less except that the fee will not exceed 5 percent of the value of lignite; provides that 50 percent of fees collected in any one State are to be expended in that State for reclamation or alleviatiing the impact of coal development in the area; provides that, in areas where there is relatively little damage from past coal mining, the States' share of the fees may be used for other purposes;

Sets a series of minimum uniform requirements for all coal surface mining operations on both Federal and State lands which deal with four basic issues—pre-planning, mining practices, post-mining reclamation and the protection of water resources; specifies that lands which cannot be reclaimed under the standards of the act and lands within the National Park, Wildlife Refuge, Wilderness and Wild and Scenic Rivers systems, National Recreation Areas, National Forests, and certain other areas may not be stripmined; makes special provision for mining which affects alluvial valley farming land; provides for certain limited variances to the prescribed standards where such variances provide equal or better protection to the environment and result in a higher postmining use;

Provides, in regard to rights of private surface owners, for obtaining consent as a condition of issuing a new Federal coal lease, and requires payment of all damages, including lost income, and payment of limited additional compensation to the surface owner;

Establishes a grant program to fund mining and mineral resources and research institutes in public colleges and universities to train qualified personnel in mine-related fields and to conduct research related to mining technology;

Provides for a study, to be completed by 1976, to determine the appropriate program for regulating surface coal mines on Indian lands and requires, in the interim, that all leases on Indian lands include certain performance standards at least as stringent as those in the Act; and contains enforcement and other provisions. S. 7. P/S March 12, 1975. (62) H.R. 25. Vetoed May 20, 1975. House sustained veto June 10, 1975. Note: (Comparable provisions are contained in S. 391, Coal Leasing—Strip Mining.)

ENVIRONMENT

Council on Environmental Quality—environmental policy: Authorizes $2 million for fiscal year 1976 and $500,000 for the transition period (July 1–September 30, 1976) for the Council on Environmental Quality and amends the National Environmental Policy Act of 1969 to permit the Council to accept certain reimbursements for domestic and international travel, and to make use of volunteer and uncompensated services. H.R. 6054. Public Law 94–52, approved July 3, 1975. (VV)

Envronmental impact statements: Amends the Environmental Policy Act of 1969 to establish a single uniform procedure for environmental impact statements (EIS) prepared after January 1, 1970 on major projects funded under a program of Federal grants to States, including, the Federal-aid highway program; permits State preparation of an EIS so long as the responsible Federal

official guides and participates in the EIS preparation and independently evaluates the product before approving and adopting it; and requires the Federal official to prepare independently for the EIS the analysis of the impacts and alternatives of major interstate significance associated with the project or action which is the subject of the EIS. H.R. 3130. Public Law 94–83, approved August 9, 1975. (VV)

National Advisory Committee on Oceans and Atmosphere: Authorizes $445,000 for fiscal year 1976, $111,250 for the transition period July 1–September 30, 1976, and $445,000 for fiscal year 1977 for the National Advisory Committee on Oceans and Atmosphere. H.R. 5447. Public Law 94–69, approved August 5, 1975. (VV)

Ocean dumping: Amends the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations for fiscal year 1976 and the transition period July 1–September 30, 1976 as follows: Title I, Ocean dumping permit program—$5.3 million for fiscal year 1976 and $1.325 million for the transition period; title II, research program on the effects of ocean dumping on the marine environment—$6 million for fiscal year 1976 and $1.5 million for the transition period; and title III, marine sanctuaries areas—$6.2 million for fiscal year 1976 and $1.55 for the transition period; and changes from January to March, the month in which the Secretary of Commerce must file his annual report on the effects of ocean dumping on the marine environment. H.R. 5701. Public Law 94–62, approved July 25, 1975. (VV)

Scrimshaw art preservation: Permits the Secretary of Commerce, who administers the Endangered Species Act with respect to whales, to grant exemptions for a limited period of time for the sale of finished scrimshaw (etched designs and carvings from whale bone) products in interstate commerce. S. 229. P/S Apr. 10, 1975. (VV)

GENERAL GOVERNMENT

Alaskan Natives: Reopens for one year the roll of Alaska Natives to enroll those Natives who failed to meet the March 30, 1973 enrollment deadline and provides for the adjustment of distributions of money thereunder; requires the Secretary of the Interior to redetermine the place of residence of Natives who had enrolled in Native "villages" or "groups" which were subsequently found ineligible, for purposes of receiving benefits; authorizes the Secretary to place revenues received by the Interior Department from Federal lands which will be patented to the Natives in an escrow account to receive interest until the time of patenting and then to pay the account funds to the Natives; establishes the rights of easement holders on such lands to revenues arising directly from the easement; permits mergers of Native Village Corporations which are too small to be economically viable with other Village Corporations or the Regional Corporation; removes Native corporations from the purview of the Investment Company Act of 1940, the Securities Act of 1933, and the Securities Exchange Act of 1934 until December 31, 1991; insures that Settlement Act benefits would not be counted against eligibility for the food stamp or other Federal programs; extends the authority of the Joint Federal-State and Land Use Planning Commission for Alaska until June 30, 1979; authorizes $250,000 to pay four Native corporations in cities where Native populations were once in the majority but are now in the minority and which have land selection rights but received no funds under the Settlement Act with which to do the necessary organizing and inventorying to make the selections; authorizes the payment of $100,000 to each of six villages which elected to obtain fee title to reservation lands rather than receive land and monetary benefits; and permits Natives who chose to accept ownership of reservation land to enroll either in the Village Corporation or on an at-large basis with the Regional Corporation receiving benefits. S. 1469. P/S August 1, 1975. (VV)

American Legion badges—Patent renewals:

American Legion: Renews and extends for 14 years design patent No. 54,296 for the protection of the emblem and insignia of the American Legion, S. 720. P/S May 13, 1975. (VV)

American Legion Auxiliary: Renews and extends for 14 years design patent No. 55,398 for the protection of the emblem and insignia of the American Legion Auxiliary. S. 721. P/S May 13, 1975. (VV)

Sons of the American Legion: Renews and extends for 14 years design patent No. 92,187 for the protection of the emblem and insignia of the Sons of the American Legion. S. 719. P/S May 13, 1975. (VV)

Assistant Secretary of Commerce: Authorizes an additional Assistant Secretary of Commerce who shall be appointed by the President with the advice and consent of the Senate. S. 1622. P/S June 27, 1975. (VV)

Attorney General's Salary: Repeals Section 1 of Public Law 93–178 (enacted to remove the question concerning the impact of Article I, Section 6, Clause 2 of the Constitution on the President's nomination of Senator Willam B. Saxbe to be Attorney General of the United States) to restore to the Office of the Attorney General the annual rate of basic pay of $60,000 (Level I of the Executive Schedule) and provides that the act shall take effect February 4, 1975, following the February 3, 1975, resignation date of Attorney General William Saxbe. S. 58. Public Law 94–2, approved Feb. 18, 1975. (VV)

Barrier-Free Environment for Disabled: Declares the sense of the Congress that there shall be a national policy to recognize the inherent right of all citizens, regardless of their physical disability, to the full development of their economic, social, and personal potential through the free use of the manmade environment, and that the adoption and implementation of this policy requires the mobilization of the resources of the private and public sectors to integrate handicapped people into their communities. S. Con. Res. 11. Senate adopted May 20, 1975. (VV)

Bikini Atoll: Provides a $3 million ex gratia payment to the people of Bikini Atoll who were relocated to Kili Island in 1946 in order to provide a nuclear test site on the Atoll. H.R. 5158 Public Law 94–34, approved June 13, 1975. (VV)

FBI Director, Ten-Year Term for: Amends the Omnibus Crime Control and Safe Streets Act of 1968 to provide for a ten-year term of service for the Director of the Federal Bureau of Investigation; limits the appointment of a Director to one 10-year term; and provides that the law regarding Federal mandatory retirement at age 70 shall apply to this appointment. S. 1172. P/S Mar. 17, 1975. (64)

Federal Metal and Nonmetallic Mine Safety Board Abolishment: Abolishes the Federal Metal and Nonmetallic Mine Safety Board of Review which reviews appeals by noncoal mine operators from closure orders issued by the Department of Interior's Mining Enforcement and Safety Administration and transfers such functions to the Secretary of Interior. S. 1774. P/S June 24, 1975. (VV)

General Federation of Women's Clubs: Amends the Act granting a charter to the General Federation of Women's Clubs to delete the $1.5 million figure on real estate the Federation may hold under the charter, thus allowing the value of its real or personal property to be determined by current market value which has increased due to inflation. S. 240. P/S May 8, 1975. (VV)

GPO employees: Authorizes the Public Printer to designate employees to administer and certify the oath or affirmation of office required by section 3331, title 5, U.S.C., and other oaths or affirmations that may be required by law or regulation with respect to the operation of the Government Printing Office. S. 2264. P/S Sept. 18, 1975. (VV)

GSA leases: Amends section 111 of the Federal Property and Administrative Services Act of 1949 to permit the Administrator of the General Services Administration (GSA) to enter into multiyear leases (not to exceed 10 years) of automatic data processing equipment including collateral maintenance, software and other kinds of supplies and services associated with such equipment at amounts in excess of what is available in the fund, provided the amount of unfunded obligations authorized is not needed and the balances of the fund are maintained in such amounts as are necessary at any time for cash disbursements. S. 1260. P/S July 14, 1975. (VV)

John F. Kennedy Center authorization: Authorizes $2.8 million for fiscal year 1976, $741,000 for the transition period July 1-September 30, 1976, and $3.1 million for fiscal year 1977 for the non-performing arts functions of the John F. Kennedy Center and directs the General Accounting Office to perform a regular audit of the accounts of the Kennedy Center. H.R. 6151. Public Law 94– , approved 1975. (VV)

NASA authorization: Authorizes to the National Aeronautics and Space Administration $3,562,310,000 for fiscal year 1976 and $925,150,000 for the transition period July 1–September 30, 1976, for research and development, construction of facilities and research and program management including continued development of the space station and shuttle program. H.R. 4700. Public Law 94–39, approved June 19, 1975. (VV)

National Arboretum: Authorizes the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the National Arboretum which was established for purposes of research and education concerning tree and plant life. S. 1649. P/S July 25, 1975. (VV)

National Center for Productivity and Quality of Working Life: Repeals Public Laws 92–210 and 93–311 which created a National Commission on Productivity and Work Quality and replaces the Commission with an independent National Center for Productivity and Quality of Working Life to be composed of a 25-member board of directors headed by a Chairman to be appointed by the President with the advice and consent of the Senate;

Directs the Center to develop and establish, in consultation with the appropriate committees of Congress and departments and agencies of the executive branch, a national policy for productivity growth in public and private sectors and to encourage the maximum active participation of the private sector as well as State and local governments to improve the rate of productivity growth in all sectors of the Nation's economy consistent with the needs of the economy, the natural environment, and the best interests of management, the work force and consumers; empowers the Center to enter into contracts and other funding arrangements to carry out the purposes of this act;

Requires the Center to submit a report to the President and Congress by December 31 of each year detailing its activities and any recommendations; requires the Comptroller General, within 36 months of enactment, to submit a report evaluating the effectiveness of the Center along with any recommendations; and authorizes therefor $6.250 million, for fiscal year 1976, and $5 million for each of fiscal years 1977 and 1978. S. 2195. P/S Sept. 4, 1975. (379)

National Portrait Gallery: Amends the National Portrait Gallery Act of 1962 to redefine the term "portraiture" to permit the National Portrait Gallery to acquire photographs and other portrayals of individuals in

addition to "painted or sculpted likenesses". S. 1657. P/S July 25, 1975. (VV)

National Guard technicians retirement: Amends title 5, U.S.C., to grant retirement credit for National Guard technician service performed before 1969 to all former technicians serving in any position subject to the retirement law on or after January 1, 1969, including those who have retired and whose annuities therefor would be subject to recomputation; allows credit for 100 percent of pre-1969 technician service for annuity computation purposes; and permits eligible technicians to pay the full amount rather than 55 percent otherwise owed as a deposit for pre-1969 technician service. S. 584. P/S June 16, 1975. (VV)

National Science Foundation authorization: Authorizes $787,000,000 to the National Science Foundation for fiscal year 1976 and an additional $4 million in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States. H.R. 4723. Public Law 94–86, approved August 9, 1975. (VV)

National Security Council: Amends the National Security Act of 1947, as amended, to include the Secretary of the Treasury as a member of the National Security Council. S. 2350. P/S Oct. 9, 1975. (VV)

Nixon tapes: Disapproves the regulations proposed by the Administrator of General Services in his report to the Senate submitted on March 19, 1975, pursuant to title I of Public Law 93–526, regarding public access to materials and tape recordings of former President Nixon. S. Res. 244. Senate adopted Sept. 11, 1975. (VV)

Patents: Amends certain sections of title 35, U.S.C. to implement the Patent Cooperation Treaty (Ex. S, 92d–2d) which enables U.S. and foreign nationals to file international applications with the Patent Office which would act as a Receiving Office and process such applications and provides applicants filing applications for patents only in the U.S. with the same flexibility afforded to applicants filing under the treaty. S. 24. P/S June 21, 1975. (VV)

Public buildings: Broadens the policy of the Federal Government in the acquisition and use of public office buildings; encourages the purchase of older buildings and their recycling into new office space for Federal agencies; and provides for the multiple use of Federal buildings by allowing rental to commercial and other tenants of a limited amount of space in Federal office buildings. S. 865. P/S August 1, 1975. (VV)

Small Business Act amendments: Increases from $725 million to $825 million the subceiling for the Small Business Investment Company loan and guarantee program; increases from $450 million to $525 million the subceiling for economic opportunity loan programs; increases from $35 million to $45 million the authorization for the Surety Bond Guarantee Fund and allows additional appropriations up to $15 million for the program; and clarifies the language in Public Law 93–501 to allow Small Business Investment Companies to charge an interest rate, in certain cases, that is in excess of the State usury law. S. 1839. P/S June 4, 1975. (VV)

Smithsonian Institution Museum support facilities: Authorizes the Regents of the Smithsonian Institution to undertake planning of museum support facilities on federally owned land within the District of Columbia metropolitan area for the conservation, preparation, and study of the national collection of scientific, historical, and artistic objects and artifacts, their documentation, and the training of museum conservators. S. 907. Public Law 94–98, approved Sept. 19, 1975. (VV)

Smithsonian Institution site: Reserves for future public use of the Smithsonian Institution that portion of the Mall bounded by Third Street, Maryland Avenue, Fourth Street, and Jefferson Drive in the District of Columbia. H.R. 5327. Public Law 94–74, approved August 8, 1975. (VV)

Standard reference data program: Authorizes to the Department of Commerce $2.8 million for fiscal year 1976, $750,000 for the transition period July 1–September 30, 1976, $3 million for fiscal year 1977, and $3 million for fiscal year 1978 to carry out the purposes of the Standard Reference Data Act which provides the scientific community with accurate and accessible quantitative data needed in the physical sciences, together with critical evaluations thereof. H.R. 37. Public Law 94–48, approved July 2, 1975. (VV)

*Tourism promotion: Amends the International Travel Act to authorize funding for the United States Travel Service, Department of Commerce, which is charged with promoting travel and tourism to and within the United States as follows: for international tourism promotion—$5 million for the transition period July 1–September 30, 1976, $25 million for fiscal 1977, and $30 million in each fiscal 1978 and 1979; for domestic tourism promotion—$625,000 for the transition period July 1–September 30, 1976, and $2.5 million for each fiscal 1977 through 1979. H.R. 5357. Vetoed May 28, 1975. House referred to Committee on Interstate and Foreign Commerce June 20, 1975. (VV)

Amends the International Travel Act to authorize funding for the U.S. Travel Service, Department of Commerce, which is charged with promoting travel and tourism to and within the United States as follows: for international tourism promotion—$5 million for the transition period July 1–September 30, 1976, $25 million for fiscal 1977, and $30 million for each fiscal 1978 and 1979; for domestic tourism promotion—$2.5 million for fiscal 1976, $625,000 for the transition period July 1–September 30, 1976, and $2.5 million for each fiscal 1977 and 1978; and directs the Secretary of Commerce to promote travel within the United States and its possessions through activities that are in the public interest and which do not compete with those of any State, city or private agency. S. 2003. Public Law 94–55, approved July 9, 1975. (VV)

Trust Territory of the Pacific: Increases the fiscal year 1975 authorization for the activities of the civil government of the Trust Territory of the Pacific Islands from $60 to $75 million and authorizes an additional $1.5 million to fund the transition of the Mariana Islands District from the Trust Territory Government to a new commonwealth status of a territory of the United States, pursuant to an agreement signed on February 15, 1975, by the U.S. and the Marianas, if approved by Congress. S. 326. Public Law 94–27, approved May 28, 1975. (VV)

War risk insurance: Amends the Federal Aviation Act of 1958 to extend the present authority of the Secretary of Transportation to issue war risk insurance until May 7, 1976; authorizes the investment of the aviation war risk insurance revolving fund in interest-bearing securities of the United States; and requires a study by the President of the possible expansion of the program to include losses and damage resulting from riots, civil disorder, hijacking or other similar acts and to report the results of the study together with his recommendations to Congress 90 days after enactment. H.R. 8564. Public Law 94–90, approved August 9, 1975. (VV)

GOVERNMENT EMPLOYEES

Cost-of-living increase—Postal Service OSHA compliance: Authorizes an annual minimal salary adjustment for top executive, legislative and judicial officers and employees of the United States who last received an increase in compensation in March 1969, including each level of the Executive Schedule, the salary of the Vice President, rates of pay for members of Congress and officials of the legislative branch, and salaries in the judicial branch; provides that the adjustment is to become effective whenever a comparability adjustment is made in the rates of pay under the General Schedule (normally in October of each year) and shall equal the percentage of the comparability adjustment, rounded to the nearest $100;

Makes the Occupational Safety and Health Act of 1970 applicable by statute to the Postal Service, which is presently bound by its July 1973 collective bargaining agreement with the National Postal Unions. H.R. 2559. Public Law 94–82, approved August 9, 1975. (352)

Federal employees pay increase: Disapproves the alternative pay plan submitted to Congress by the President on August 29, 1975, providing for a 5-percent increase in pay for Federal employees in lieu of 8.66 as determined under the comparability procedures set forth in the Federal Pay Comparability Act of 1970. S. Res. 239. Senate rejected Sept. 18, 1975. (398)

Part-time Government employees: Declares as policy that a certain regulated proportion of all positions in the General Schedule (except positions in grades GS–16, GS–17, and GS–18) shall be made available on a part-time career employment basis (16 to 30 hours per week) for persons who are unable or do not wish to work full time; covers, with certain exceptions, executive and regulatory agencies subject to the rules of the Civil Service Commission; provides for a gradual phase-in of part-time career employment, with at least 2 percent of all positions in each grade in each agency to become available yearly until the 10 percent limit placed on part-time positions is reached; authorizes waivers of the percentage minimum by the Civil Service Commission in cases of need; prohibits the forcing of an employee to accept part-time employment as a condition of new or continued employment; gives part-time employees entitlement to the same proportionate fringe benefits as those vested in regular hour employees; and contains other provisions. S. 792. P/S June 23, 1975. (VV)

Travel expenses: Increases the per diem allowance (from $25 to a maximum of $35) and the actual daily expense reimbursement (from $40 to a maximum of $50) which may be paid to regular employees of the Federal Government, and to consultants and experts employed intermittently, who are traveling on official business within the continental United States; authorizes the President to establish the per diem allowance for travel outside the continental United States and authorizes the Administrator of General Services to prescribe the conditions under which an employee may be reimbursed for actual and necessary expenses (not to exceed $21 per day) in addition to the maximum per diem established for that locality; provides commensurate increases, under regulations established by the Senate Committee on Rules and Administration, in the per diem allowances and actual expense reimbursement for Senators and Senate employees and members of a Senator's personal staff traveling to and from the Senator's home State on official business; prohibits reimbursement for travel to or from a home State 120 days prior to a primary or general election in which the Senator is a candidate; increases the mileage rates for the use of privately owned vehicles used while traveling on official business (automobiles—from 12 cents to 15 cents; airplanes—from 12 cents to 18 cents; and motorcycles from 8 cents to 11 cents); requires the Administrator of General Services to make a determination with respect to the cost of travel and the operation of privately-owned vehicles and adjust the rates at least once a year; and provides that

the agency or branch of Government concerned must absorb expenses incurred during fiscal year 1975 as a result of increases in per diem and mileage allowances out of its existing funds. S. 172. Public Law 94–22, approved May 19, 1975. (VV)

HEALTH

Communicable disease control—consumer health education: Revises and extends expiring communicable and other disease control programs and the venereal disease prevention and control programs; and authorizes consumer health education and promotion programs through the establishment of an Office of Consumer Health Education and Promotion within HEW. S. 1466. P/S July 30, 1975. (VV)

Developmentally disabled persons assistance: Provides a 3-year extension and revision, through 1978, of programs under the Developmental Disabilities Services and Facilities Construction Act; authorizes a total of $2.87 million for these programs; expands the definition of a "developmental disability" to include autism as well as mental retardation, cerebral palsy, or epilepsy, or any other condition related to mental retardation or dyslexia; continues the University-Affiliated Facilities (UAF's) clinical facilities program and system of demonstration and training grants for professional personnel, with emphasis directed to accomplishing the provision of services to adults and children in programs of community care as an alternative to providing such services in institutionalized settings; proposes the establishment of UAF Satellite Centers which would be primarily concerned with the delivery of clinical services; revises the organizational structure for administration of the act and continues formula grants to the States for planning, services and facilities; mandates the establishment of an evaluation system by the Secretary and a time-phased plan for each State's implementation of an evaluation system; contains a "Bill of Rights" for the developmentally disabled which establishes a clear Federal policy that the mentally retarded have a right to appropriate treatment, services, and habilitation and to assure that public funds are not provided to institutions or other residential programs for the mentally retarded that do not provide adequate treatment, service or habilitation or which do not meet minimum standards; requires an individual written habitation plan for each person being served in the program; requires a system in each State to protect and advocate the rights of persons with developmental disabilities; and contains other provisions. H.R. 4005. Public Law 94–103, approved Oct. 4, 1975. (VV)

Drug abuse office and treatment: Continues the current authorization of $45 million through fiscal year 1979 for drug abuse prevention and treatment programs; increases from $100 million to $200 million the figure used to determine the minimum formula grant to any State (currently $66,666, which would increase to $133,333 if there is no change in the ratio of actual to authorized appropriations); recognizes narcotic addiction and drug abuse as a serious, long-term problem requiring continuous effort; redesignates the Special Action Office for Drug Abuse Prevention as the Office of Drug Abuse Prevention Policy, and redefines its role as strictly that of coordination and policy direction; confirms and clarifies the programmatic role of the National Institute of Drug Abuse; broadens the prohibition on discrimination against drug abusers in hospital admissions to include all admissions instead of emergency admissions only; and contains other provisions. S. 2017. P/S June 26, 1975; P/H amended September 11, 1975. (VV)

* Health Services—Nurse training: Amends title VII of the Public Health Service Act to revise and extend the programs of assistance under that title for nurse training until fiscal year 1978 and to revise and extend programs of health revenue sharing and health services until fiscal year 1977;

Authorizes a total of $1.422 billion for health services and health revenue sharing programs for 2 years, including $15 million for each year for detection and treatment of hypertension (high blood pressure): extends the authorizations in title X regarding Family Planning Programs and specifies that population research shall be conducted under the authorities of that title and requires an annual report on family planning programs; extends the Community Health Centers program for 2 years and authorizes grants for the planning, development and operation of community health centers, including existing neighborhood health centers; extends the Migrant Health Centers Program and authorizes planning, development and operation grants to such centers which offer a broad range of health services in an area in which not less than 6,000 migrants reside;

Includes a separate authorization to cover the reasonable costs of inpatient and outpatient hospital services for migrants; extends the Community Mental Health Centers programs to continue progress toward the goal of establishing a center in each of the approximately 1,500 catchment areas across the Nation and to assure continued support of the 500 centers already begun; provides authorization to expand the types of disease control programs to include programs for diseases borne by rodents; establishes a demonstration program of start up grants to home health agencies and grants for training personnel to provide home health services; establishes a Committee on Mental Health and Illness of the Elderly for a one year period to review the mental health needs of the elderly and recommend policy for the care and treatment of mentally ill aged persons; establishes a Rape Prevention and Control Center within the National Institute for Mental Health to study the causes, control and treatment of rape and to establish a clearinghouse of information and provides support for demonstration projects in the prevention and control of rape; establishes a temporary Commission on Epilepsy to devise a national plan for the control of epilepsy and its consequences, the State and Federal role in research on epilepsy and on the identification, treatment and rehabilitation of persons with epilepsy; establishes a temporary Commission on Huntington's Disease to devise a comprehensive national plan similar to the one outlined for epilepsy; establishes a new Hemophilia Diagnosis and Treatment program and provides grants to establish treatment centers; sets a $1,000 fine and/or 1 year imprisonment for intimidating or coercing a person who has requested or is receiving welfare benefits to undergo an abortion or sterilization as a condition of receiving such benefits;

Extends through 1977 the nurse training authorities of title VIII at levels of $156 million in 1976, $181 million in 1977 and $201 million in 1978; includes authorization for: construction grants with priority funding to schools expanding their capacity to enroll nurses in advanced training programs; "capitation" grants to schools based on the number of nursing students enrolled but designating different amounts for different types of nursing schools to reflect more accurately the differential in costs between baccalaureate degree, associate degree, and diploma schools of nursing; special assistance to nursing schools that are in serious financial straits to meet operational costs for maintaining quality programs or their accreditation requirements; special project grants to assist schools in trying out better methods of teaching, better utilization of faculty, expanded enrollments and recruiting and retaining students from disadvantaged backgrounds; graduate and other advanced training programs for professional nurses to teach, serve as administrators or practice in nursing specialties; the nursing loan, scholarship and traineeship program to meet current demands and needs; and grants for programs for training nurse practitioners with specific emphasis on geriatrics and the care of nursing home patients; and contains other provisions. S. 66. Vetoed July 26, 1975. Senate overrode veto July 26, 1975; House overrode veto July 29, 1975. Public Law 94–63, without approval July 29, 1975. (132,337)

Medical device safety: Authorizes the Food and Drug Administration to regulate the development and marketing of medical devices; requires that medical devices used in life-supporting situations, including all implanted medical devices such as a heart valve, pacemaker or interuterine device (IUD), shall be subject to premarket scientific testing; authorizes the Secretary of Health, Education, and Welfare to establish protocols for testing medical devices and requires that test data be submitted to HEW when a manufacturer seeks approval of a lifesupporting medical device for marketing; provides that medical devices for which experts agree standard-setting is sufficient to protect the public health and safety need only meet performance standards; provides that the third classification of devices which are generally safe when used in accordance with their instructions, such as a tongue depressor, is exempted from either procedure; and contains other provisions. S. 510. P/S Apr. 17, 1975. (139)

Older Americans: Continues for an additional two years until September 30, 1977, authorizations for programs conducted under the Older Americans Act; increases the authorizations for nutrition projects for the elderly by 12 and ½ percent to offset inflation; continues the authorization for the Older Workers Community Service Employment Program for three years through September 30, 1978 at increased levels; continues authorizations for special programs for the elderly under the Library Services and Construction Act, the Adult Education Act, the Higher Education Act, the Community Services Act, and the Vocational Education Act; creates a new program of grants to the States to establish programs of transportation, home services, and legal services to the aging; authorizes direct grants to Indian tribal organizations for the provision of services to elderly Indians; provides for a study of the subject of age discrimination to be conducted by the U.S. Commission on Civil Rights; and contains other provisions. H.R. 3922. P/H Apr. 8, 1975; P/S amended June 26, 1975; In conference. (VV)

School lunch and child nutrition program: Amends section 13 of the National School Lunch Act to continue the Special Food Service Program for children, which expires June 30, 1975, through September 30, 1975; authorizes 1975 summer meal reimbursement rates to be adjusted to account for increase in food costs this past year; and requires USDA, within 10 days following enactment, to issue its regulations pertaining to the option of this year's summer feeding program. S. 1310. Public Law 94–20, approved May 2, 1975. (VV)

*School lunch program: Makes permanent the authorization for the school breakfast program; extends through September 30, 1977, the authority of the Secretary of Agriculture to purchase agricultural commodities for donation to the child nutrition programs when acquisitions under other agricultural authorities are not available, and permits States which phased out their commodity distribution facilities prior to June 30, 1974, to elect to receive cash in lieu of donated foods; revises the year-round phase of the special food service program for children to establish a child care food program

for children in nonresidential child care institutions for the period through September 30, 1978;

Extends the special supplemental food program for women, infants and children (WIC) through September 30, 1978; expands the definition of "school" under the school lunch program and the school breakfast program to include any public or licensed nonprofit private residential child care institution, including, but not limited to, orphanages and homes for the mentally retarded;

Deletes the State's option to serve reduced price lunches and provides that State educational agencies are to establish income guidelines for reduced price lunches at levels which are 95 percent above those in the income poverty guidelines prescribed by the Secretary;

Provides that any child whose parent or guardian is providing the child's principal support and is unemployed shall be served a free or reduced price lunch if the existing family income eligibility guidelines for free or reduced price lunches are met;

And contains other provisions. H.R. 4222. Vetoed Oct. 3, 1975. House overrode veto Oct. 7, 1975; Senate overrode veto Oct. 7, 1975. Became Public Law 94–105, without approval Oct. 7, 1975. (274,383,429)

Supplemental food programs: Extends through September 30, 1975, the special supplemental food program for women, infants, and children. H.R. 7136. Public Law 94–28, approved May 28, 1975. (VV)

HOUSING

Emergency housing: Contains provisions for mortgage foreclosure relief to homeowners who cannot meet their mortgage payment because of recession conditions: authorizes the Department of Housing and Urban Development (HUD) to co-insure mortgages in default or to make monthly payments of up to $250 for as long as 24 months when lenders are unwilling or unable to forebear on their loans; and authorizes $1.5 billion for co-insurance contracts and a maximum of $500 million for mortgage relief loans;

Provides for home purchase assistance which expands the President's authority to make mortgage credit available when housing starts are low; extends the existing Home Purchase Assistance Act to June 30, 1976; permits financing of condominiums and apartments, sets a maximum rate of interest at 7 and ½ percent, and provides for additional housing financing by the Federal Finance Bank; and authorizes an additional $10 billion in mortgage credit;

Includes provisions for housing rehabilitation and repair; continues the section 312 rehabilitation loan program through August 1976 at an authorized level of $100 million; and

Extends by 7 months, the time period during which certain purchasers of older inner-city housing insured by FHA can apply for compensation for correcting serious defects that were not detected at the time of purchase. H.R. 5398. Public Law 94–50, approved July 2, 1975. (255)

*Emergency middle-income housing: Authorizes emergency Federal assistance to stimulate housing construction, to increase employment and to provide critically needed housing for families now priced out of the housing market:

In title I, establishes a temporary emergency program in order to increase the present low level of housing starts and create jobs; gives homebuyers whose family income does not exceed 120 percent of the median income of their area three options to assist them in buying a home: (1) a 6 percent mortgage loan which will gradually increase to the market rate after 3 years; (2) a 7 percent mortgage for the life of the contract; or (3) a $1,000 cash grant to be used to defray the downpayment expenses on a newly constructed house; provides that no new commitment or contract for assistance can be entered into after June 30, 1976;

In title II, authorizes $500 million to the Secretary of Housing and Urban Development to make repayable, emergency mortgage relief payments up to $250 per month for a period of no longer than 2 years on behalf of homeowners who are delinquent in their mortgage payments as a result of a substantially reduced income because of involuntary unemployment or underemployment;

In title III, contains miscellaneous provisions extending the section 312 rehabilitation loan program until August 22, 1977 and authorizing therefore $35 million for each of the two years; increasing the set-aside of contract authority for projects to be owned by public housing agencies from $150 million to $300 million; extending the section 235 homeownership assistance program until July 1, 1977; extending by seven months the period during which owners of FHA-insured houses which have serious structural defects can request assistance from HUD to repair such defects; extending until January 1, 1976 the date after which Federal financial assistance will be denied to flood-prone areas unless the community is participating in the National Flood Insurance Program; and contains other provisions. H.R. 4485. Vetoed June 24, 1975. House sustained veto June 25, 1975. (148, 221)

Home mortgage disclosure: Contains provisions, effective for 3 years, to enable consumers to compare the lending record of different banks and thrift institutions in local communities and to create greater awareness by municipal governments of the effects of local lending patterns on homeownership and neighborhood preservation, and possibly to encourage reinvestment in areas formerly "red-lined" (areas marked as less desirable for investment because of their age, racial or ethnic make-up or income level);

Requires mortgage lenders covered by the Real Estate Settlement Act of 1974 to disclose by ZIP code area the number and dollar amounts of mortgage loans originated by that institution during the previous fiscal year, as well as the total number and dollar amount of all such loans outstanding as of the close of the fiscal year; requires that the disclosure statement also disclose the breakdown between loans to owner-occupied versus absentee-owned housing; applies these requirements only to lenders within standard metropolitan statistical areas (SMSA) but requires lenders within an SMSA to disclose any loans outside that SMSA;

Provides that the Federal Reserve Board shall write the overall regulations for implementation of the act, and that each bank supervisory agency shall regulate institutions under its usual jurisdiction; requires the Board to carry out a 3-year study of the legislation and to provide recommendations for additional disclosure, if any; provides that States are free to adopt their own mortgage disclosure requirements, and that the Board shall exempt any institution located within a State that has adopted similar or more stringent disclosure requirements. S. 1281. P/S Sept. 4, 1975.

Mobile-home Loans: Increases the ceiling for mobile-home loans which the Secretary of Housing and Urban Development is authorized to insure under title I of the National Housing Act from $10,000 to $12,500 for a new mobile home and from $15,000 to $20,000 for a mobile home composed of two or more modules;

Authorizes special capital grant assistance for the Kendall Square Urban Renewal Project in Cambridge, Massachusetts, in excess of the two-thirds project costs limit under the Housing Act of 1949, as amended, because of certain extraordinary circumstances which have delayed completion of the project;

Extends the emergency implementation provisions of the National Flood Insurance Act of 1968, as amended, for 1 year, from December 31, 1975, to December 31, 1976, to insure the continued availability of federally subsidized flood insurance to communities who have not yet completed their required eligibility studies;

Authorizes the Secretary of Housing and Urban Development to deal with insurance of mortgages in FHA programs on a 75 percent basis instead of the present 45 percent except for the section 8 program which deals with cost limits on a prototype basis; and

Makes technical amendments to section 221(f) of the National Housing Act by striking certain occupancy limitations. S. 848. P/S Sept. 10, 1975. (390)

Real estate settlement procedures: Suspends for 1 year sections 4, 6 and 7 of the Real Estate Settlement Procedures Act (P.L. 93–533) which requires a complicated uniform settlement statement, a 12 day advanced disclosure of settlement costs by lenders, and a requirement, in some instances, of the disclosure of the previous selling price of existing real property and repeals section 121 (c) of the Truth in Lending Act which also requires a full statement of closing costs in connection with consumer and home mortgage lending. S. 2327. P/S Oct. 9, 1975. (VV)

Variable interest rate mortgages: States the sense of the Congress that the Federal Home Loan Bank Board shall refrain from authorizing, by rule, regulation, or otherwise, a Federal savings and loan association to offer loans with variable interest rates and secured by one-to-four family homes or dwelling units unless Congress specifically, by law, authorizes such variable interest rates. S. Con. Res. 45. Senate adopted June 16, 1975. (VV)

INDIANS

American Indian Policy Review Commission: Authorizes the American Indian Policy Review Commission to accept and use donations of money, property, and uncompensated services from Government and private sources and to procure the temporary or intermittent services of experts and consultants at a rate of compensation not in excess of that paid to employees of the Senate; authorizes the reimbursement for travel, subsistence, and other necessary expenses incurred by a person providing voluntary and uncompensated services in the performance of their service; and permits the Commission to use the frank of any member of Congress who is serving as Chairman of the Commission for mailing materials. S. 2073. Public Law 94–80, approved August 9, 1975. (VV)

Indian Claims Commission: Authorizes $1,550,000 for fiscal year 1976 for the Indian Claims Commission; extends the life of the Commission for an additional 3 years, from April 10, 1977 to April 10, 1980; and provides that cases still pending upon the expiration date of the Commission shall be turned over to the Court of Claims for final adjudication. H.R. 3979. P/H June 16, 1975; P/S amended August 1, 1975; In conference. (VV)

Indian health care: Provides the direction and financial resources to overcome the inadequacies in the existing Federal Indian Health care program and invite the greatest possible participation of Indians and Alaska Natives in directing and managing that program;

Establishes, in title I, the Indian Health Manpower Program and authorizes: a grant program to recruit and aid Indians in pursuing health careers; a preparatory scholarship program for the final two academic years of any pre-professional health education curriculum; a health professions schol-

arship program; a program to facilitate employment by the Indian Health Service (IHS) of medical students to further expand their opportunities for training; education and training programs in environmental health, health education, and nutrition; and a continuing education allowances program, for the purpose of assuring an adequate health manpower base for proper Indian health services and a sufficient cadre of Indian professional and health workers to permit Indian communities to have a maximum voice in shaping those services;

Provides, in title II, for a planned growth of the Indian Health Service's delivery system and facilities and authorizes funds to remove the backlogs in direct patient care and dental care, improve field health services, mental health care and services, treatment centers for the children, and other unmet health needs;

Authorizes, in title III, funds for construction of modern, efficient hospitals and other health care facilities serving Indians where none exist and to renovate existing facilities, most of which are in a state of general deterioration and to remedy the lack of safe water and sanitary waste disposal facilities in the Indian environment;

Meets, in title IV, the problem of limited access by Indians to services supported by Medicare or Medicaid due to most Indians living on remote reservation lands, by authorizing payments under the two programs to be made to qualified Indian Health Service hospitals and long-term care facilities for services rendered to Medicare and Medicaid patients, and provides 100 percent Federal Medicaid matching funds for services provided to any eligible Indian in an IHS facility;

Establishes, in title V, programs in urban areas to make health services more accessible to the urban Indian population and assist them in making the difficult transition from traditional reservation life to the urban world;

Authorizes a total of $1.6 billion for fiscal years 1977 through 1983; and changes the various Secretarial reporting requirements to assist Congress in undertaking a thorough review of all expenditures at the end of the third fiscal year in order to revise authorization levels if appropriate. S. 522. P/S May 16, 1975. (VV)

Klamath Indian land—Colonial Williamsburg: Gives tribal members receiving moneys from gains from the sale of lands in trust the same exclusion from Federal taxation as was afforded to tribal members who withdrew from the tribe in 1959 and received tax free cash payments for their interests; and amends the Internal Revenue Code to add a provision affecting the situation of Colonial Williamsburg, a tax-exempt foundation, which provides the same treatment regarding depreciation recapture to a tax-exempt organization as to a taxable organization where assets are received through liquidation of a subsidiary and are used in an unrelated taxable trade or business. H.R. 83. Public Law 94–81, approved August 9, 1975. (VV)

Pueblo of Laguna: Declares that 480 acres of land used for cattle grazing by the Pueblo of Laguna Indians be held in trust for the tribe by the United States, and provides for the trust transfer of 39.9 acres of land which was omitted from other lands transferred to the Pueblo pursuant to the Act of August 13, 1949. S. 557. Public Law 94– , approved 1975 (VV)

Pueblo Tribe, New Mexico: Repeals a 1926 statute which subjects Pueblo tribal lands to condemnation pursuant to State law. S. 217. P/S May 21, 1975. (VV)

Submarginal lands: Provides for the trust transfer of submarginal lands in certain specified projects, including all surface and subsurface mineral interests, to the affected Indian tribes or communities. S. 1327. Public Law 94– , approved 1975. (VV)

INTERNATIONAL

Arts and artifacts indemnity: Authorizes the Federal Council on the Arts and the Humanities to make indemnity agreements against loss or damage of specified art works and artifacts brought into this country for exhibitions which the Secretary of State or his designee deems to be in the national interest. S. 1800. P/S July 25, 1975. (VV)

Cambodia—Food aid: States as the sense of the Senate that 50 percent of the food commodities which the President has budgeted for Cambodia under title I of the Agricultural Trade Development and Assistance Act of 1954 which is delivered after the date this resolution is agreed to and prior to July 1, 1975, be made available for humanitarian purposes under Public Law 480 title II humanitarian grant assistance and be administered by voluntary agencies already established in Cambodia. S. Res. 94. Senate adopted Mar. 10, 1975. (VV)

Israel: Expresses the displeasure of the Senate with respect to the attempts by some of the nonaligned Third World nations to expel Israel from membership in the United Nations and states the Senate's intent to review all present United States commitments to the Third World nations involved in the event of Israel's expulsion as well as its continued membership in the United Nations. S. Res. 214. Senate adopted June 18, 1975. (VV)

Japan-U.S. Friendship Trust Fund: Creates a Japan-U.S. Friendship Trust Fund to support a variety of mutual educational and cultural studies, facilities, exchanges, and other activities between Japan and the U.S.; authorizes therefor the transfer of 7.5 percent of the proceeds of the Okinawa Reversion Agreement and those funds available in U.S. accounts in Japan pursuant to the agreement with Japan regarding the Settlement of Postwar Economic Assistance to Japan including the interest accruing to the G.A.R.I.O.A. (Government and Relief in Occupied Areas) account; and establishes a Commission to administer the program. S. 824. Public Law 94– , approved , 1975. (VV)

Middle East dispute: Endorses the efforts of and commends the Secretary of State and the President in trying to achieve a peaceful resolution of the Middle East disputes and urges the Secretary to continue to use his good auspices to help the parties in dispute abandon intransigence and see the wisdom of these objectives S. Res. 119. Senate adopted Mar. 24, 1975. (VV)

Nuclear Non-Proliferation: Endorses the purpose of the conference of parties in Geneva reviewing the operation of the Nuclear Non-Proliferation Treaty to assure that its purpose and provisions are being realized and commends the President for his commitment to furthering the objectives of this Treaty. S. Res. 146. Senate adopted May 6, 1975. (VV)

Peace Corps authorization: Authorize $80,826,000 for fiscal year 1976 and $25,729,000 for the transition period July 1–September 30, 1976, to finance the operations of the Peace Corps plus an additional amount up to $1 million to cover increases in salary or other employee benefits authorized during this period; authorizes the transfer of $315,000 from Peace Corps funds to ACTION's readjustment allowance account in order to rectify an existing imbalance in that account for the period March 1, 1961 to February 28, 1973; prohibits sex discrimination with respect to the enrollment, terms and conditions of service of volunteers; increases the readjustment allowance for all regular Peace Corps volunteers from $75 to $125 per month of service; and increases the stipend of the regular VISTA volunteer from $50 to $75 per month. H.R. 6334. P/H June 23, 1975; P/S amended Oct. 9, 1975. (VV)

Romania—Most favored nation status: States the sense of the Senate that the President should certify to Congress that he will use his authority under the Trade Act of 1974 to terminate by Executive order most favored nation status to Romania if Romania engages in discriminatory emigration practices as detailed in sections 402 and 409 of the Trade Act. S. Res. 219. Senate adopted July 25, 1975. (VV)

Approves the extension of non-discriminatory treatment with respect to the products of the Socialist Republic of Romania transmitted by the President to the Congress on April 25, 1975. S. Con. Res. 35. Senate adopted July 25, 1975; House adopted July 28, 1975. (330)

Sinai agreement: Gives Congressional authorization to the President to implement the United States proposal for an early-warning system in the Sinai peninsula; provides that up to 200 American civilian technicians may be assigned to early warning facilities in the Mitla and Giddi Passes region of the Sinai to help insure compliance with an agreement between the governments of Egypt and Israel. H.J. Res. 683. Public Law 94– , approved 1975. (441)

State Department authorization: Authorizes $1,176,485,000 for fiscal year 1976 for the State Department, for international organizations, conferences and commissions, for information and cultural exchange and other purposes; authorizes the establishment and maintenance of a $25 million Emergency Refugee and Migration Assistance Fund; declares the sense of Congress concerning criteria for the selection and confirmation of U.S. Ambassadors; amends the basic legislation of the Arms Control and Disarmament Agency to strengthen its role in U.S. Government arms control policymaking and negotiations; establishes a Foreign Service grievance system; declares the sense of Congress concerning the presence of Soviet and American military forces in the Indian Ocean and littoral countries; requires a report from the President to Congress on the history of U.S. involvement with former inhabitants of Diego Garcia Island in the Indian Ocean; requires the President to direct the U.S. Ambassador to the United Nations to insist that the U.N. take steps to obtain an accounting of members of the U.S. Armed Forces and U.S. civilians missing in action in Southeast Asia and requires the President to report to Congress within 6 months on the action taken by the U.N.; and contains other provisions. S. 1517. P/S Sept. 11, 1975. (394)

TREATIES

International Office of Epizootics: Established an International Information Office of Epizootics to report on the outbreak of animal diseases, provide an exchange of technical information on the control of animal diseases and provide uniform sanitary codes for the movement of livestock and other animals in international trade. Ex. M, 93d–2d. Resolution of ratification agreed to May 5, 1975. (162)

Turkey—Military assistance: Amends the Foreign Assistance Act of 1961—and related continuing resolutions (the terms of which have expired)—to make possible on a contingent basis the resumption of United States military assistance to Turkey, and to provide that the President shall make monthly reports to the Congress on progress toward the conclusion of a negotiated solution of the Cyprus conflict. S. 846. P/S May 19, 1975; House rejected July 23, 1975. (190)

Turkey—Military assistance; Board for International Broadcasting: Authorizes the delivery to Turkey of approximately $185 million in defense articles which Turkey contracted for under the Foreign Military Sales Act prior to the start of the arms embargo on February 5, 1975; permits the issuance of licenses in connection with commercial sales; defers additional sales under the military sales program until enactment of au-

thorizing legislation; requests the President to initiate discussions with Greece to determine the most urgent needs of Greece for economic and military assistance and requires a report by him to Congress within 60 days after enactment of this act on such discussions together with his recommendations for such assistance; requires a report from the President within 60 days on the progress made during this period toward the conclusion of a negotiated solution of the Cyprus conflict; requests the President to initiate discussions with Turkey concerning effective means of preventing the diversion of opium poppy into illicit channels; and

Authorizes $65,640,000 plus necessary amounts for statutory employee salary and benefits increases for the Board for International Broadcasting (Radio Free Europe and Radio Liberty) for fiscal year 1976. S. 2230. Public 94–104, approved Oct. 6, 1975. (373)

United Nations Peacekeeping Forces in Middle East: Authorizes such appropriations as may be necessary for the payment of the United Nations peacekeeping forces in the Middle East for the period beginning October 25, 1974, and $5.7 million in supplemental payments for the period prior to October 25, 1974, to meet the U.S. share of peacekeeping expenses in excess of those originally anticipated. S. 818. Public Law 94–37, approved June 19, 1975. (VV)

United States-Soviet trade: States the sense of the Senate that the President, during the negotiations on a multiyear agreement with the Soviet Union on the purchase of American grain, should attempt to negotiate an agreement whereby the Soviet Union would sell oil to the United States and that United States negotiators shall negotiate the purchase price for Soviet oil at a level which reflects the high value which it attaches to its grain resources. S. Res. 269. Senate adopted Oct. 2, 1975. (VV)

Vietnam and Cambodia—Humanitarian assistance: Authorizes the President to use any noncommitted funds available for military assistance for South Vietnam and Cambodia for humanitarian assistance for South Vietnamese and Cambodian refugees. S. 1696. P/S May 8, 1975. (VV).

Vietnam—Assistance and evacuation: Authorizes (1) the use of the armed forces, if the President determines such use is necessary, in the expeditious withdrawal of the remaining American citizens and dependents from South Vietnam and the withdrawal of such foreign nationals as may be brought out along with U.S. citizens and their dependents; (2) $177 million in unappropriated balances of previous authorizations for economic aid to Indochina which will be available for humanitarian assistance to and evacuation programs from South Vietnam; and (3) additional humanitarian assistance in South Vietnam in the amount of $150 million to be disbursed through international organizations and voluntary relief agencies to the extent feasible; requires a quarterly report from the President to the Congress regarding the amount and nature of assistance, the expected recipients, the organizations involved in the distribution and the means of distribution; and contains other provisions. H.R. 6096 (S. 1484). P/H Apr. 24, 1975; P/S amended Apr. 24, 1975; Senate agreed to conference report Apr. 25, 1975; House rejected conference report May 1, 1975. *NOTE*: (The conference report was rejected by the House because American evacuation of South Vietnam had been completed.) (145, 152).

Vietnam—Peace negotiations: Calls upon the President to request all Vietnamese parties to reopen discussion toward the implementation of the Agreement on Ending the War and Restoring Peace in Vietnam, to encourage those elements seeking a political settlement, and to make known that American assistance to all Vietnamees will depend on the degree of good faith efforts made by them to obtain a cease-fire and political solution to the conflict; and directs the President to report to the Senate, within 30 days, on the steps he has taken. S. Res. 133. Senate adopted Apr. 21, 1975. (VV)

Vietnamese refugee aid authorization: Authorizes $455 million, without fiscal year limitation, for assistance to and in behalf of Cambodian and Vietnamese refugees utilizing procedures and administrative machinery established under the Migration and Refugee Assistance Act of 1962; requires the President to keep the appropriate committees of Congress fully and currently informed regarding the use of funds and the exercise of activities carried out pursuant to this act and requires submission of a plan for their resettlement or return, and further requires the President to submit periodic reports on the status of his efforts to retrieve all amounts previously authorized for assistance to South Vietnam and Cambodia excluding the $98 million allocated to the State Department for the movement of refugees. H.R. 6755. Public Law 94–23, approved May 23, 1975. (186)

Vietnamese refugees: States as the sense of the Senate that State and local governments, with the assistance of voluntary and civic organizations, should join with the Federal Government in assuming responsibility for the sponsorship, resettlement and assimilation of Indochinese refugees into American communities. S. Res. 187. Senate adopted June 18, 1975. (VV)

Vietnamese refugees welcome: Welcomes on behalf of the Senate the latest exiles to American shores—the refugees from South Vietnam and Cambodia. S. Res. 148. Senate adopted May 8, 1975. (168)

World Food Conference: Endorses the World Food Conference of 1976 to be held in Ames, Iowa from June 27 through July 1, 1976, and commends the Iowa State University of Science and Technology for a humanitarian undertaking of international significance. S. Con. Res. 19. Senate adopted Apr. 25, 1975; House adopted June 17, 1975. (VV)

MEMORIALS, TRIBUTES, AND MEDALS

Aleksandr I. Solzhenitsyn: Authorizes the President to declare by proclamation that Aleksandr I. Solzhenitsyn shall be an honorary citizen of the United States. S.J. Res. 36. P/S Mar. 20, 1975. (VV)

American Revolution Bicentennial Commemorative Medals: Authorizes the Secretary of the Treasury to strike and furnish to the American Revolution Bicentennial Administration a maximum of 25,000 medals commemorating up to 21 ethnic heroes of the American Revolution to be selected by the Bicentennial Administration. S. 371. P/S June 6, 1975. (VV)

Apollo-Soyuz Test Project: Congratulates the National Aeronautics and Space Administration and the Soviet Academy of Sciences on the joint Apollo-Soyuz Test Project. S. Res. 222. Senate adopted July 26, 1975. (VV)

Armed Forces Bicentennial Medals: Authorizes the striking of medals in commemoration of the bicentennials of the U.S. Army, the U.S. Navy, and the U.S. Marine Corps. H.R. 5708. Public Law 94– , approved 1975. (VV)

Bess Truman's birthday: Extends best wishes to Elizabeth Wallace Truman on the occasion of her ninetieth birthday. S. Res. 65. Senate adopted Feb. 7, 1975. (VV)

Boy Scouts of America: Pays tribute to the Boy Scouts of America on the occasion of its 65th anniversary. S. Con. Res. 6. Senate adopted Jan. 28, 1975. (VV)

Emperor and Empress of Japan: Extends to Their Majesties, the Emperor and Empress of Japan, a warm welcome and sincere good wishes from the American people on the occasion of their historic first visit to the United States. H. Con. Res. 402. Senate adopted Sept. 29, 1975. (VV)

Girl Scouts of America: Pays tribute to the Girl Scouts of America on the occasion of the 63d anniversary of its founding. S. Con. Res. 22. Senate adopted Mar. 6, 1975. (VV)

International Ladies Garment Workers Union: Commends the International Ladies Garment Workers on its 75th anniversary. S. Res. 194. Senate adopted June 25, 1975. (VV)

John C. Kluczynski Federal Building: Designates a Federal office building in Chicago, Illinois as the "John C. Kluczynski Federal Building". H.R. 4241. Public Law 94–84, approved August 9, 1975. (VV)

King Faisal, death of: Expresses the sorrow of the Senate upon the death of King Faisal of Saudi Arabia. S. Res. 120. Senate adopted Mar. 26, 1975. (VV)

Martin Luther King: Commemorates the forty-sixth anniversary of the birth of the Reverend Doctor Martin Luther King, Jr., on January 15, 1929, and honors his contributions to the cause of social progress and economic justice for all Americans. S. Res. 14. Senate adopted Jan. 16, 1975. (VV)

Rabbi Menachem Schneerson: Congratulates Rabbi Menachem Schneerson on the observance of his twenty-fifth anniversary, January 22, 1975, as leader of the Movement of Lubavitch. S. Res. 22. Senate adopted Jan. 21, 1975. (VV)

Roy Wilkins: Honors Roy Wilkins, Executive Director of the NAACP, on the occasion of his being named "American of the Year" by the American Religious Town Hall Meeting, Inc., in Dallas, Texas. S. Res. 35. Senate adopted Jan. 27, 1975. (VV)

Senator Morse's home: Expresses the sense of the Senate that the Secretary of the Interior assist the State of Oregon in the preservation and protection of the home of Senator Wayne Morse (a 26-acre ranch located in Eugene, Oregon) by making available to the State such assistance as may be available through programs under the administration of the Secretary. S. Res. 266. Senate adopted Sept. 26, 1975. (VV)

Tom Steed reservoir: Designates the Mountain Park Reservoir, Oklahoma, as the Tom Steed Reservoir. S. 1531. Public Law 94–77, approved August 9, 1975. (VV)

U.S. Flag display: Provides that the American flag may be flown for 24 hours of each day in Valley Forge State Park, Valley Forge, Pa. S.J. Res. 98. Public Law 94–53, approved July 3, 1975. (VV)

Vietnam veterans: Commends those Americans, living and dead, who participated in the Southeast Asian conflict and extends gratitude to them and their families. S. Res. 171. Senate adopted May 22, 1975. (VV)

NATURAL RESOURCES—NATIONAL HISTORIC SITES

American Falls Dam replacement: Amends the Act authorizing the replacement of the American Falls dam through the use of non-Federal financing by the American Falls Reservoir District, Idaho to provide that the dam and related facilities constitute solely water facilities for purposes of section 103 of the Internal Revenue Code thus assuring that bonds issued by the reservoir district to finance such construction are tax exempt. S. 1152. P/S July 7, 1975. (VV)

Assateague Island National Seashore: Amends the 1965 law which provided for the establishment of Assateague Island National Seashore in the States of Maryland and Virginia to repeal sections 7 and 9 mandating the construction of roads and overnight and other public accommodations on the island and authorizes the Secretary of the Interior to hold hearings and make payments to the County of Worcester, Maryland, on claims for compensation for damages or other losses incurred by the county as a result of the repeal of these sections. S. 82. P/S June 4, 1975. (VV)

Franklin D. Roosevelt National Historic site: Authorizes the acceptance of additional lands for the home of the Franklin D. Roose-

velt National Historic Site in Hyde Park, New York and authorizes an additional amount, not to exceed $104,000, for development purposes. H.R. 2808. Public Law 94–19, approved Apr. 30, 1975. (VV)

Grand Canyon National Park: Provides for a study of the enlarged Grand Canyon National Park for possible inclusion in the wilderness system pursuant to the provisions of the Wilderness Act. H.R. 4109. Public Law 94–31, approved June 10, 1975. (VV)

Guadalupe Mountains National Park: Authorizes the exchange of certain lands within the Guadalupe Mountains National Park, Texas for other lands which will provide an improved access road to the McKittrick Canyon portion of the park. S. 313. P/S June 4, 1975.

Hells Canyon National Recreation Area: Establishes the Hells Canyon National Recreation Area in the States of Idaho, Oregon, and Washington to be comprised of an approximate 100 mile area with specified parts designated as recreational, scenic and wild; and deauthorizes the Asotin Dam which was authorized under the provisions of the Flood Control Act of 1962. S. 322. P/S June 2, 1975. (VV)

Indian Trails: Provides for the study of the Indian Nations Trail in Oklahoma for possible designation as a National Trail under the National Trails System Act. S. 1123. P/S May 21, 1975. (VV)

Indoor recreation facilities: Amends the Land and Water Conservation Fund Act by adding new authority which permits a State to use not more than 25 percent of its total annual allocation from the Fund for the planning and development of sheltered recreational facilities within specified areas thus permitting the enclosure of swimming pools, ice skating rinks, tennis courts, and similar outdoor facilities for year-round use where climate now controls the season or where there is a shortage of available land. S. 288. P/S May 21, 1975. (VV)

Klondike Gold Rush National Historic Park; Authorizes the Secretary of the Interior to establish the Klondike Gold Rush National Historical Park, an area of approximately 13,271 acres consisting of the following four units; Pioneer Square, Seattle, Washington and the Skagway, Chilkoot Trail, and White Pass uniats in Alaska. S. 98. P/S June 4, 1975. (VV)

Polecat Bench Area, Pick-Sloan Missouri Basin program: Authorizes the construction, operation, and maintenance of the Polecat Bench area of the Shoshone extensions unit of the Pick-Sloan Missouri Basin program in northwest Wyoming. S. 151. P/S August 1, 1975. (VV).

Reclamation Loan Projects: Amends the Rehabilitation and Betterment Act of 1949 to provide that organizations concerned with projects constructed under the terms of the Small Reclamation Projects Act, as amended, may be eligible and apply for loans in accordance with the Rehabilitation and Betterment Act of 1949 with repayment subject to the terms of the Small Reclamation Projects Act. H.R. 543. Public Law 94–102, approved Oct. 3, 1975. (VV)

River Basin monetary authorizations: Provides increased monetary authorizations of $186 million for fiscal year 1976 and the transition period July 1–September 30, 1976 for continuation of activities on four river basin plans (Arkansas River Basin—$4 million, Mississippi River Project—$158 million, North Branch Susquehanna River Basin—$22 million, and Santa Ana River Basin—$2 million) for flood control, navigation, power, and related purposes under the jurisdiction of the Secretary of the Army and the Chief of Engineers. S. 2270. Public Law 94–101, approved Oct. 2, 1975. (VV)

Saline water authorization: Authorizes $4.1 million for fiscal year 1976 for the Federal saline water conversion program conducted by the Secretary of the Interior including $250,000 for completion of research on the freeze crystallization process of water purification which was developed as an advanced water resalinization process. H.R. 3109. Public Law 94–38, approved June 19, 1975. (VV)

Touchet Division, Walla Walla project: Authorizes $22,774,000 plus such additional amounts as may be necessary to operate and maintain the Touchet Division, Walla Walla project, in the States of Oregon and Washington. S. 1922. P/S Oct. 9, 1975. (VV))

Volunteers in the Parks: Increases the annual authorization for the Volunteers in the Parks Program from $100,000 to $250,000. S. 896. P/S May 1, 1975. (VV)

Water resources planning: Amends the Water Resources Planning Act to extend the authority for financial grants to States for water resources planning; increases the rate of compensation for experts and consultants to the Water Resources Council and River Basin Commissions; provides authorizations for preparation of a national assessment and for regional and river basin plans; and revises the membership of the Water Resources Council. H.R. 5952. Public Law 94– , approved 1975. (VV)

WILD AND SCENIC RIVERS STUDIES

Allegheny River: Designates a 128 mile segment of the Allegheny River in the State of Pennsylvania for study for possible inclusion in the National Wild and Scenic Rivers System. S. 1004. P/S August 1, 1975. (VV)

Housatonic River: Designates a segment of the Housatonic River in the state of Connecticut for study for possible inclusion in the National Wild and Scenic Rivers System. S. 10. P/S August 1, 1975. (VV)

Wilderness areas:

Bristol Cliffs Wilderness: Modifies the boundaries of the Bristol Cliffs Wilderness Area, located in the Green Mountain National Forest, Vermont, by eliminating all privately owned lands and approximately 720 acres of noncontiguous National Forest lands thus reducing the size of the area from 6,500 acres to 3,775 acres. S. 2308. P/S Oct. 8, 1975. (VV)

Eagles Nest Wilderness: Designates a 128,-084 acre area in the Arapaho and White River National Forests, Colorado as the Eagles Nest Wilderness. S. 268. P/S June 5, 1975. (VV)

Flat Tops Wilderness: Designates a 235,-230 acre area in the Routt and White River National Forests, Colorado, as the Flat Tops Wilderness. S. 267. P/S June 5, 1975. (VV)

Sheep Mountain Wilderness: Designates a 52,000 acre area in the Angeles and San Bernardino National Forests as the Sheep Mountain Wilderness. S. 74. P/S August 1, 1975. (VV)

Wilderness areas studies:

Snow Mountain Defacto Wilderness: Designates an approximate 37,000 acre area in the Mendocino National Forest, California, known as the "Snow Mountain Defacto Wilderness Area" for study for possible inclusion in the National Wilderness Preservation System. S. 1391. P/S August 1, 1975. (VV)

NOMINATIONS

(Action by Rollcall Vote)

Alexander P. Butterfield to retired list U.S.A.F.: Authorizes the President to appoint Alexander P. Butterfield (formerly a retired colonel, United States Air Force, until he resigned his commission in order to meet the eligibility requirements that the Administrator of the Federal Aviation Administration be a civilian at the time of his nomination) to the grade of colonel on the retired list of the Regular Air Force with pay and other benefits based on a retirement date of February 1, 1969. S. 182. Senate rejected May 20, 1975. (193)

Stanley K. Hathaway, of Wyoming, to be Secretary of Interior: Nomination confirmed June 11, 1975. (220)

Carla Anderson Hills, of California, to be Secretary of Housing and Urban Development: Nomination confirmed Mar. 5. 1975. (44)

Thomas J. Meskill, of Connecticut, to be U.S. Circuit Judge for the Second Circuit: Nomination confirmed Apr. 22, 1975. (141)

Earl J. Silbert, of the District of Columbia, to be U.S. Attorney for the District of Columbia: Nomination confirmed Oct. 8, 1975. (430)

PROCLAMATIONS

American Business Day: Designate May 13 of each year as "American Business Day". S.J. Res. 15 P/S Mar. 20, 1975. (VV)

American Institute of Banking Week: Proclaims the week of May 25 to 31, 1975, as "National American Institute of Banking Week". S.J. Res. 58. P/S Apr. 18, 1975. (VV)

Buchenwald Concentration Camp: Proclaims April 6, 1975, as a day of observance of the liberation of the survivors of the Buchenwald concentration camp. S.J. Res. 56. P/S Mar. 20, 1975. (VV)

Proclaims April 6, 1975, as a day of observance of the liberation of the survivors of the Buchenwald concentration camp. S. Res. 123. Senate adopted Mar. 26, 1975. (VV)

Car Care Month: Designates May 1975 as "National Car Care Month". S.J. Res. 57. P/S Mar. 20, 1975. (VV)

Child Abuse Awareness Week: Designates the period of January 9 through January 15, 1975, as "National Child Abuse Awareness Week". S. Res. 43. Senate adopted Feb. 3, 1975. (VV)

Earth Day: Designates March 21, 1975, as "Earth Day". H.J. Res. 258. Public Law 94–8, approved Mar. 21, 1975. (VV)

Energy Conservation Month: Declares the period from February 16 to March 15, 1975, as "Energy Conservation Month"; requests the President to report to Congress by March 31, 1975, on the steps taken to promote energy conservation and their results and on any recommendations for legislation necessary to implement a continuing program of energy conservation; and requests the President to report monthly to the American people and Congress on the status of energy conservation initiatives and their effectiveness, domestic energy supplies and shortages, energy imports and the impact of available supplies or shortages on the economy of and employment in the United States. S. Res. 59. Senate adopted Feb. 5, 1975. (VV)

Good Neighbor Day: Designates the fourth Sunday in September of each year as "Good Neighbor Day." S.J. Res. 128. P/S Sept. 17, 1975.

Haym Salomon Day: Designates January 4, 1976, as "Haym Salomon Day." S.J. Res. 99. P/S Oct. 9, 1975. (VV)

Historic Preservation Week: Designates the week beginning May 12, 1975, as "National Historic Preservation Week." H.J. Res. 242. Public Law 94–21, approved May 9, 1975. (VV).

Hobby Month: Designates October 1975 as "Hobby Month." S.J. Res. 84. P/S June 19, 1975. (VV)

Honor America: Declares the 21-days from Flag Day through Independence Day as a period to honor America. S.J. Res. 92. Public Law 94–33, approved June 13, 1975. (VV)

Hunting and Fishing Day: Designates the fourth Saturday of September 1975, as 'National Hunting and Fishing Day." S.J. Res. 34. Public Law 94–96, approved Sept. 18, 1975. (VV)

Indian Day: Designates September 28, 1975, as "National Indian Day." S.J. Res. 44. P/S May 8, 1975. (VV)

Japan-U.S. Friendship Days: Designates September 30 to October 13, 1975, as "Japan-United States Friendship Days." S. Res. 270. Senate adopted Sept. 29 1975. (VV)

Music in Our Schools Day: Designates March 13, 1975, as "Music in Our Schools Day." S.J. Res. 18. P/S Feb. 19, 1975 (VV)

Newspaper Week: Designates October 5

through 11, 1975, as "Newspaper Week." S.J. Res. 46. P/S May 8, 1975. (VV)

Newspaper Carrier Day: Designates October 11, 1975, as "Newspaper Carrier Day." S.J. Res. 46. P/S May 8, 1975. (VV)

Norwegian-American Day: Designates October 9, 1975, as "Norwegian-American Day." S. Res. 135. Senate adopted June 19, 1975. (VV)

Saint Elizabeth Seton Day: Designates Sunday, September 14, 1975, as "National Saint Elizabeth Seton Day," S.J. Res. 125. Public Law 94-95, approved Sept. 11, 1975. (VV)

Shut-In Day: Designates the first Sunday in June 1975, as "National Shut-In Day". S.J. Res. 79. P/S May 8, 1975. (VV)

Ski Week: Designates the first Tuesday in January of every year as "National Ski Week". S.J. Res. 90. P/S Sept. 25, 1975. (VV)

Space Observance: Designates the period of July 16 through 22 as "United States Space Observance". S. Con. Res. 47. Senate adopted July 11, 1975. (VV)

Youth Art Month: Designates March 1975 as "Youth Art Month". S.J. Res. 8. P/S Feb. 19, 1975. (VV)

SENATE

Cloture rule: Amends rule XXII (cloture) of the Standing Rules of the Senate to change from two-thirds present and voting to a constitutional three-fifths of the membership (or 60 Senators) the number of Senators required to vote for ending debate except on a measure or motion to amend the Senate rules, which shall require an affirmative vote by two-thirds of the Senators present and voting. S. Res. 4. Senate adopted Mar. 7, 1975. (55)

Commission on the Operation of the Senate: Establishes a Commission to make an independent, impartial overall study of the organization and operation of the Senate including (1) the functioning of Members, officers, and employees in the light of the responsibilities of the Senate in the area of law-making, representation, and over-sight, (2) conflicts in the programming of business, (3) office accommodations and facilities, (4) information resources, and (5) internal management administrative support structure; does not include within the purview of the Commission an examination of the question of the jurisdictions of the committees over subject matter; provides for the appointment of 9 Commissioners from private life and 2 *ex officio* non-voting Commissioners who are presently officers or employees of the Senate; requires an interim report by March 31, 1976 and a final report, together with its findings and recommendations, by September 30,1976. S. Res. 277. Senate adopted July 29, 1975. (VV)

Committee expenses: Continues through May 31, 1975, the authority of Senate Committees to pay employees and make expenditures for inquiries and investigations. S. Res. 111. Senate adopted Mar. 17, 1975. (VV)

Continues through July 15, 1975, the authority of the Senate committees to pay employees and make expenditures for inquiries and investigations. S. Res. 191. Senate adopted June 23, 1975. (VV)

Continues through July 31, 1975, the authority of the Senate Committees to pay employees and make expenditures for inquiries and investigations. S. Res. 207. Senate adopted July 15, 1975. (VV)

Committee staffing: Amends Senate Rule XXV to authorize each Senator to employ personal staff persons to assist in committee duties; allows funds for this purpose in an amount equivalent to that for three professional positions—two for all standing committees except for the District of Columbia, Post Office and Civil Service, Rules and Administration and Veterans' Affairs Committees, and allows one position for these four standing committees and select, special, and joint committees; provides that a Senator who serves on three of the standing committees in the category for which two positions are provided and who does not serve on any of the other standing committees for which one position is provided may use all three positions for his standing committees; and offsets the number of positions allowed by the number of present employees allocated to a Senator. S. Res. 60. Senate adopted June 12, 1975. (225)

Amends S. Res. 60, to direct the Secretary of the Senate to make available for public inspection names and total aggregate compensation of any professional staff appointed to assist Senators in connection with their committee responsibilities. S. Res. 182. Senate adopted June 13, 1975. (VV)

Floor privileges: Amends rule XXXIII of the Standing Rules of the Senate to extend privileges of the Senate floor to the Parliamentarian Emeritus of the Senate. S. Res. 196. Senate adopted July 10, 1975. (VV)

Government intelligence: States as the sense of the Senate that the Senate should consider, after proper committee review, all legislative proposals to study government operations with respect to intelligence activities, improve existing or create additional mechanisms to provide continuing congressional oversight of such activities, and act upon any proposals by March 1, 1976; and further states that the Senate should pass by June 1, 1976 such necessary legislation to assure that the intelligence activities of the Federal Government are consistent with the Constitution of the United States. S. Res 231. Senate adopted July 31, 1975. (VV)

New Hampshire Senate debate—TV/radio coverage: Suspends Rule IV of the Rules for regulation of the Senate wing of the United States Capitol to permit radio, television and photographic coverage of all proceedings of the Senate in open session with respect to the determination of the contested New Hampshire Senate seat contingent upon prior agreements limiting debate thereon; provides that such broadcasting shall be in conformity with procedures agreed upon by the joint leadership; and requires the leadership to assure that the most advanced technology is employed in televising these proceedings especially with respect to the selection of cameras that require no additional lighting in the Senate Chamber. S. Res. 177. Senate adopted June 9, 1975. *NOTE:* (Agreement could not be reached between the networks and the joint leadership as to lighting requirements.) (VV)

New Hampshire Senate vacancy: Declares the New Hampshire Senate seat vacant immediately. S. Res. 202. Senate rejected July 9, 1975. (269)

New Hampshire Senate vacancy—committee funding: Declares a vacancy in the contested New Hampshire Senate seat as of August 8, 1975, so that New Hampshire may hold another election; authorizes the Select Committee on Nutrition and Human Needs to expend not to exceed $485,000 during the 1975 investigative year for increase in investigations. S. Res. 54. Senate adopted July 30, 1975. (VV)

Select Committee on Intelligence: Authorizes $750,000 for the establishment of an 11-member select committee composed of six Democrats and five Republicans to investigate and study governmental operations with respect to intelligence activities and the extent, if any, to which illegal, improper, or unethical activities were engaged in by any agency of the Federal Government or by any persons, acting individually or in combination with others, on behalf of the Federal Government; empowers the committee to require by subpena the attendance of witnesses and the production of evidence; directs an investigation of the following matters among others: (1) whether the Central Intelligence Agency has conducted an illegal domestic intelligence operation; (2) the conduct of domestic intelligence or counterintelligence operations against citizens by the FBI or any other Federal agency; (3) the origin and disposition of the so-called Huston Plan to apply intelligence agency capabilities against individuals or organizations within the U.S.; (4) the extent to which the FBI, the CIA and others coordinate their respective activities; (5) the extent to which domestic intelligence or counterintelligence activities within the United States by the CIA conform to its legislative charter; (6) past and present interpretation by the Director of Intelligence of the responsibility to protect intelligence sources; (7) the extent and nature of executive branch oversight as well as congressional oversight of all intelligence activities; (8) the need for specific legislative authority to govern the operation of any intelligence agencies of the Federal Government without explicit statutory authority, such as the Defense Intelligence Agency and the National Security Agency; (9) the extent to which intelligence agencies are governed by Executive orders, rules or regulations either published or secret and the extent to which these Executive orders, rules or regulations interpret, expand, or conflict with specific legislative authority; (10) violation or suspected violation of any State or Federal statute by any intelligence agency or person on its behalf, including surreptitious entries, surveillance, and illegal opening or monitoring of U.S. mail; (11) whether any of the existing laws are inadequate to safeguard the rights of Amercian citizens, to improve control of intelligence activities and to resolve uncertainties as to the authority of U.S. intelligence and related agencies; (12) whether there is unnecessary duplication of expenditure and effort in the collection and processing of intelligence information by agencies; and (13) the extent and necessity of overt and covert intelligence activities in the United States and abroad; authorizes the committee to recommend new legislation with regard to its findings and to make a final report of the results of the investigation; provides that the committee shall prevent disclosure of information relating to CIA or other intelligence activities which would adversely affect intelligence activities in foreign countries; prohibits committee personnel from accepting any honorarium, royalty or other payment for a speaking engagement, article, or book in connection with the investigation; and requires security clearance for employees who have access to classified information. S. Res. 21. Senate adopted Jan. 27, 1975. (1)

Authorizes the Select Committee to obtain data contained in tax returns provided that names, addresses, and personal identifications are presented in such a form as not to identify the individual tax returns from which the data is derived. S. Res. 167. Senate adopted May 22, 1975. (VV)

Amends S. Res. 21 to increase the authorization for expenditures of the Select Committee from $750,000 to $1.1 million of which not to exceed $300,000 shall be for the procurement of consultants. S. Res. 165. Senate adopted June 6, 1975. (VV)

Amends S. Res. 21 to increase the expenditure authorization of the Select Committee through February 29, 1976 from $1.15 million to $2.25 million of which not to exceed $600,000 shall be for the procurement of consultants. S. Res. 218. Senate adopted July 31, 1975. (VV)

Senate photograph: Provides for a temporary suspension of rule IV of the Rules for the Regulation of the Senate Wing of the Capitol (which prohibits the taking of pictures in the Senate chamber) for the purpose of permitting the United States Capitol Historical Society to photograph the Senate in actual session and authorizes the Sergeant at Arms to make the necessary arrangements with a minimum of disruption to Senate proceedings. S. Res. 217. Senate adopted July 25, 1975. (VV)

Witness fees: Increases the limitations with regard to daily witness fees and trans-

portation expenses payable to witnesses summoned to appear before the Senate or any of its committees as follows: Witness fees—from $25 to $35 a day; transportation expenses for not more than 600 miles—from 20 cents to 35 cents per mile; and transportation expenses for more than 600 miles—from 12 cents to 20 cents per mile. S. Res. 17. Senate adopted June 4, 1975. (VV)

TRANSPORTATION-COMMUNICATIONS

Airport and airway development: Extends to September 30, 1975, the authorization for airport development grants contained in the Airport and Airway Development Act of 1970, as amended. S. 1972. P/S June 24, 1975. (VV)

Alaska Highway right-of-way: Amends the Federal-Aid Highway Act of 1973 to delete that portion of section 218(a)(1) which provides that the rights-of-way granted by the Canadian Government for the reconstruction of that segment of the Alaska Highway running through Canada "shall forever be held inviolate as a part of such highways for public use". S. 1245. P/S Sept. 4, 1975. (VV)

AMTRAK—Penn Central: Authorizes an additional $347 million to insure the continuation of essential rail services in the Northeast and Midwest under the Regional Rail Reorganization Act (Public Law 93–236); increases from $85 million to $282 million Federal grants to bankrupt railroads in the Northeast and Midwest to keep them in operation until a plan being developed by the U.S. Rail Association becomes effective after its submission to Congress by March 28, 1975; increases from $150 million to $300 million loan guarantees to bankrupt railroads to maintain and improve rail facilities until the new system is in operation and gives the Secretary of Transportation more flexibility in deciding how and when the guarantees will be used; provides a mechanism for allowing a Federal district court overseeing a reorganization to reconsider the decision that a bankrupt railroad was capable of reorganization on an income basis and thus outside of many parts of the Regional Rail Reorganization Act as in the case of the Erie-Lackawanna; clarifies the position of the Interstate Commerce Commission's Rail Services Planning Office during the reorganization period by making it explicit that they are to continue representing the interests of the small communities and users during the whole reorganizing process and authorizes the Office to hold public hearings on any supplement to the preliminary system plan; provides that no railroad in reorganization shall withhold from a State or subdivision any tax collected from a tenant of its property and imposes a maximum fine of $10,000 for violations; and contains other provisions. S. 281. Public Law 94–5, approved Feb. 2, 1975. (5, 28)

AMTRAK supplemental authorization: Provides a $63 million supplemental authorization for fiscal year 1975 to meet increased costs identified as (a) railroad performance incentive contract payments of an additional $21.5 million; (b) settlement of the Amtrak/Penn Central contractual dispute, which has resulted in an additional expense of $22.9 million; (c) additional expenses in Amtrak's car overhaul program of $5 million; and (d) increased operating costs primarily due to inflation of $49.7 million; and provides that the salary of the president of Amtrak may be as high as $85,000 instead of $60,000—the present salary ceiling. H.R. 4975. Public Law 94–25, approved May 26, 1975. (173)

Cargo vessel passenger: Amends section 26 of the Merchant Marine Act of 1920, as amended, to authorize the Coast Guard in an emergency situation to permit cargo vessels engaged in domestic trade to carry more than 16 passengers currently authorized by law. H.R. 5405. Public Law 94–85, approved August 9, 1975. (VV)

Federal-aid highway apportionments: Directs the Secretary of Transportation to apportion the $3.25 billion, previously authorized under the Federal-Aid Highway Act of 1970 for fiscal year 1977, for the Interstate Highway System and approves the 1975 cost estimate which contains apportionment factors for the several States. S. Con. Res. 62. Senate adopted Sept. 8, 1975. (VV)

Federal-aid highway projects: Increases the Federal matching share for Federal-aid highways and certain mass tranportation projects to provide States unable to meet the matching requirements for Federal-aid highway funds with moneys to cover Federal Highway Administration apportionments up to 100 percent. H.R. 3786. Public Law 94–30, approved June 4, 1975. (VV)

Maritime authorizations: Authorizes $562,933,000 for the following six categories of programs of the Maritime Administration for fiscal year 1975: (1) acquisiition, construction, or reconstruction of vessels and construction-differential subsidies; (2) ship operating-differential subsidies; (3) research and development; (4) reserve fleet; (5) maritime training at the Merchant Marine Academy at Kings Point, N.Y.; and (6) financial assistance to State marine schools; authorizes additional supplemental appropriations for increases in salaries, pay, retirement, or other employee benefits authorized by law; and requires that at least one regional office of the Maritime Administration be maintained for each of the four major seacoasts (Atlantic, Gulf, Great Lakes, Pacific). S. 332. Public Law 94–10, approved Mar. 23, 1975. (VV)

Authorizes for the following six categories of programs of the Maritime Administration for fiscal year 1976: (1) acquisition, construction, or reconstruction of vessels and construction-differential subsidies; (2) ship operating-differential subsidies; (3) research and development; (4) reserve fleet; (5) maritime training at the Merchant Marine Academy at Kings Point, N.Y.; and (6) financial assistance to State marine schools; authorizes additional supplemental amounts for increases in pay, retirement, or other employee benefits authorized by law and in operating expenses of the Merchant Marine Academy; requires, subject to certain limitations, that not less than 10 percent of appropriated funds be allocated to serve the foreign trade requirements of the ports of each of the four seacoasts of the United States (Atlantic, Pacific, Gulf, and Great Lakes); and increases from $5 billion to $7 billion the limitation on the aggregate unpaid principal on obligations guaranteed by Title XI Federal ship mortgage guarantee program. S. 1542. P/H amended May 12, 1975; Senate agreed to conference report October 9, 1975. (VV)

Railroad safety—hazardous materials transportation authorizations: Authorizes $35 million for fiscal year 1976 and $8,750,000 for the transition period July 1, 1976 through September 30, 1976, to carry out the purposes of the Federal Railroad Safety Act of 1970 which prescribes regulations to ensure the safety of the Nation's railroads; includes: $18 million for safety inspection and enforcement activities and increases the number of inspectors from 350 to 500, $10 million for safety research and development, and $3.5 million for State participation programs; amends the act to require the Secretary of Transportation to supply more information on the transport of radio active materials by rail; and authorizes $7 million for fiscal year 1976 and $1,750,000 for the transition period July 1–September 30, 1976, to carry out the purposes of the Hazardous Materials Transportation Act which regulates the transport of hazardous materials by rail. S. 1462. Public Law 94–56, approved July 19, 1975. (VV)

Railroad temporary operating authority (Rock Island): Amends the Interstate Commerce Act to authorize the Interstate Commerce Commission to grant temporary operating authority to a carrier by railroad pending a final determination by the Commission as in the case of the Chicago Rock Island and Pacific Railroad Company which has entered reorganization under section 77 of the Bankruptcy Act; authorizes the Commission to grant temporary approval of the operation of a railroad by another railroad applying to conduct such operations if failure to do so would result in the destruction of railroad properties or limit future usefulness with no direct cost to the Federal government; directs the Commision to report bi-monthly to Congress on the effects of any such orders issued; permits the Commission to extend service orders for not to exceed an aggregate of 240 days instead of the present 180 day period; and provides for repayment, within 30 days, to carriers ordered to so operate. S. 917. P/S Apr. 28, 1975; P/H amended June 23, 1975. (VV)

Railroad unemployment and sickness benefits: Amends the Railroad Unemployment Insurance Act to raise the maximum daily benefit for unemployment or sickness from $12.70 to $24 a day for the period July 1, 1975 through June 30, 1976, and to $25 a day thereafter; retains the basic benefit standards of replacement of 60 percent of most recent wages; provides a program of extended unemployment compensation benefits during periods of high unemployment for railroad employees with less than 10 years service so that they are protected as railroad employees with more service now are; changes the formula for employer contributions to increase the amount carriers pay into the railroad unemployment insurance fund; provides statutory authority for the Railroad Retirement Board to borrow funds from the Railroad Retirement Account if it finds that the unemployment insurance account is insufficient to meet its obligations for benefits; and contains other provisions. H.R. 8714. Public Law 94–92, approved August 9, 1975. (VV)

Shrimp fisheries: Amends the Offshore Shrimp Fisheries Act to implement amendments to the shrimp fishing agreement between the United States and Brazil (Ex. D, 94th–1st) by making technical amendments to the Act regarding the life of the agreement, the permissible number of vessels allowed to fish in a defined area at any particular time, the fees for licenses, and other changes needed to conform the Act with the new agreement. H.R. 5709. Public Law 94–58, approved July 24, 1975. (VV)

Tuna fisheries: Implements the agreement between the United States and other fishing nations on the management and conservation of Atlantic tunas (Ex H, 89th-2d); authorizes the Secretary of Commerce to administer the conservation program as it relates to fishing by U.S. citizens and vessels; directs the Secretary to implement conservation recommendations of the governing body created by the Convention, the International Commission for the Conservation of Atlantic Tunas; authorizes the use of the Coast Guard, the U.S. Customs Service, and where appropriate, those of coastal States to enforce the act; authorizes the President to appoint Commissioners and alternate Commissioners to represent the U.S. on the International Commission; establishes an advisory committee to the U.S. Commissioners; designates the Secretary of State as the U.S. agency to receive reports, requests and other communications of the Commission and respond thereto with the decisions to accept or object to recommendations of the Commission to be made jointly with the Secretary of Commerce, and the Secretary of Transportation to make

such decisions in matters pertaining to enforcement; and contains other provisions. H.R. 5522. Public Law 94–70, approved August 5, 1975. (VV)

Urban mass transportation: Authorizes the Secretary of Transportation to use the $500 million (set aside out of the section 3 capital grant program under provisions contained in P.L. 93–503) for operating as well as capital assistance costs of public mass transportation service in rural and small urban areas (population less than 50,000) under terms and conditions similar to those now governing section 5 grants to urbanized areas; increases the number of transit managerial training fellowships available; expands the definition of "construction" in the capital grant program to include preliminary engineering; requires the Secretary to promulgate standards governing transportation planning and equipment and facilities design for all new rapid rail systems as well as for other vehicles integrated into the system including buses to assure that elderly and handicapped persons have the same rights as other persons to utilize mass transportation facilities and services; requires the Secretary to convert the two outstanding capital loans under the Mass Transit Loan Program, which is no longer in existence, into capital grants; and requires the Secretary to provide by February 1, 1976, a detailed estimate of major capital grants to be made in fiscal years 1977–1981 under the section 3 program. S. 662. P/S Sept. 15, 1975. (VV)

VETERANS

Disability compensation and survivors benefits: Provides a 12 percent cost-of-living increase in the rates of disability compensation for those veterans rated 50 percent disabled or less and a 14 percent increase for more severely disabled veterans rated 60 percent to totally and permanently disabled; provides a 12 percent cost-of-living increase in the rates of additional compensation for dependents of veterans whose disability is rated 50 percent or more; increases from $150 to $175 the annual clothing allowance for a veteran who because of his compensable disability wears or uses a prosthetic or orthopedic appliance, including a wheelchair, which tends to wear out his clothing; makes the effective date of an award of increased compensation the earliest date that it is ascertainable that an increase in disability occurred if the application is received within a year of such date; provides a 14 percent cost-of-living increase in the rates payable for dependency and indemnity compensation (DIC) for widows and children, as well as for additional allowances for those in receipt of DIC and death compensation in need of aid and attendance; and provides that the survivors of a veteran who was rated totally disabled and permanently service-connected disabled at the time of death would be automatically entitled to dependency and indemnity compensation. H.R. 7767. Public Law 94–71, approved August 5, 1975. (VV)

Veterans' Day: Redesignates effective January 1, 1978, November 11 of each year as Veterans' Day and makes such day a legal public holiday. S. 331. Public Law 94–97, approved Sept. 18, 1975. (VV)

Veteran's physician pay: Amends title 38, U.S.C. to provide special pay and other improvements designed to enhance the recruitment and retention of physicians, dentists, nursing personnel and other health care personnel in the Department of Medicine and Surgery of the Veterans' Administration thereby, giving VA physicians and dentists salary comparability with those in the military and Public Health Service who are eligible for special pay benefits above $36,000 under Public Law 93–274, the Uniformed Services Physicians Bonus Act. H.R. 8240 (S. 1711). (376) Public Law 94– , approved 1975.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business for the purpose only of the introduction of statements, petitions, memorials, bills, and resolutions into the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 11:20 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7706) to suspend the duty on natural graphite until the close of June 30, 1978.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 8240) to amend title 38, United States Code, to provide special pay and incentive pay for certain physicians and dentists employed by the Department of Medicine and Surgery of the Veterans' Administration in order to enhance the recruitment and retention of such personnel, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 5708. An act to provide for the striking of medals in commemoration of the bicentennials of the United States Army, the United States Navy, and the United States Marine Corps.

H.R. 6151. An act to authorize appropriations for services necessary to nonperforming arts functions of the John F. Kennedy Center.

H.R. 8121. An act making appropriations for the Department of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

At 12:50 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House has passed the following bill and joint resolution in which it requests the concurrence of the Senate:

H.R. 10029. An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes; and

H.J. Res. 683. A joint resolution to implement the United States proposal for the early-warning system in Sinai.

At 4:45 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the concurrent resolution (H. Con. Res. 424) providing for an adjournment of Congress from October 9 until October 20, 1975.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT BY THE SECRETARY OF DEFENSE

A letter from the Secretary of Defense transmitting a secret report entitled "Improving the Combat Proportion of United States Forces in Europe" (with an accompanying report); to the Committee on Armed Services.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Follow Through: Lessons Learned from Its Evaluation and Need To Improve Its Administration" (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE DEPARTMENT OF THE INTERIOR

A letter from the Assistant Secretary of the Interior transmitting a report entitled "Critical Water Problems Facing the Eleven Western States" (with an accompanying report; to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION BY THE JUDICIAL CONFERENCE

A letter from the Director of the Judicial Conference of the United States transmitting a draft of proposed legislation to include United States magistrates within the coverage of section 1114 of title 18, U.S.C., which makes it a crime to kill any officer or employee of the United States designated by that section (with accompanying papers); to the Committee on the Judiciary.

PROPOSED LEGISLATION BY THE SECRETARY OF THE TREASURY

A letter from the Secretary of the Treasure transmitting a draft of proposed legislation to amend the National Firearms Act (with accompanying papers); to the Committee on the Judiciary.

ORDERS OF THE IMMIGRATION AND NATURALIZATION SERVICE

A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, copies of orders entered in the case of certain aliens (with accompanying papers); to the Committee on the Judiciary.

APPLICATIONS FOR EMERGENCY PROJECTS

A letter from the Executive Secretary of the Department of Health, Education, and Welfare transmitting a copy of a document entitled "Standards and Notice of Closing Date for Receipt of Applications for Emergency Propects" (with accompanying papers); to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION BY THE ENVIRONMENTAL PROTECTION AGENCY

A letter from the Administrator of the Environmental Protection Agency transmitting a draft of proposed legislation to amend the Federal Water Pollution Control Act (with accompanying papers); to the Committee on Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McGOVERN, from the Committee on Agriculture and Forestry, with an amendment:

H.R. 4799. A bill to amend sections 6, 306,

and 308 of the Rural Electrification Act of 1936, as amended (Rept. No. 94–424).

By Mr. McCLURE, from the Committee on Public Works, with an amendment:

S. 364. A bill relating to certain Forest Service timber sale contracts involving road construction (Rept. No. 94–426).

By Mr. HRUSKA, from the Committee on the Judiciary, with amendments:

S.J. Res. 101. A joint resolution to authorize the President to issue annually a proclamation designating that week in November which includes Thanksgiving Day as "National Family Week" (Rept. No. 94–427).

By Mr. BELLMON, from the Committee on Agriculture and Forestry:

S. Res. 285. An original resolution relating to participation by the Secretary of Agriculture in International Agricultural commodity negotiations (Rept. No. 94–428).

REPORT OF THE JOINT ECONOMIC COMMITTEE ENTITLED "THE 1975 MIDYEAR REVIEW OF THE ECONOMY" (REPT. NO. 94–425)

JOINT ECONOMIC COMMITTEE MIDYEAR REPORT

Mr. HUMPHREY. Mr. President, today I am filing a report of the Joint Economic Committee entitled "The 1975 Midyear Review of the Economy." Section 5 of the Employment Act of 1946 directs the Joint Economic Committee not only to report each spring on the recommendations in the Presidential Annual Economic Report but also from time to time to make such other reports and recommendations to the Congress as it deems advisable.

Particular importance attaches to the actions which we take on economic policy at this time. During the past year, the U.S. economy has been through the wringer. We have hit the bottom of the deepest recession since the 1930's. The unemployment rate will average well above 8 percent for 1975 as a whole.

The economy at last appears to be on the path to recovery. The challenge is to keep it on that path. In its report, the Joint Economic Committee concluded that we will stay on a recovery path only if additional actions are taken to support the economy during 1976. The committee has recommended both a tax cut which exceeds by $8 to $10 billion the extension of the 1975 tax reductions and an emergency jobs programs designed to take more than a million persons off of unemployment compensation and put them to work. Minority views and supplemental views of committee members are also included in this report.

This week the President has also recommended a large tax cut for next year. Apparently he and his advisers share the Joint Economic Committee's conclusion that we must act now to support the economy in 1976 and keep a strong recovery going.

The specific recommendations which the President has made on taxes and budget outlays do not in my judgment meet the needs of the economy as well as the combined tax reduction and emergency jobs program proposed by the Joint Economic Committee. I shall discuss this in more detail within the next few days when I introduce legislation carrying out the tax reduction recommendations made by the committee. Today I wish only to stress the fundamental point that quick and decisive action is necessary to sustain a recovery from last winter's disastrous economic collapse. I urge every Member of Congress to give careful consideration to the recommendations contained in the Joint Economic Committee's midyear report.

The PRESIDING OFFICER. The report will be received and printed.

HOUSE BILL REFERRED

The bill (H.R. 10029) making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolution were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. LEAHY (for himself and Mr. STAFFORD):

S. 2504. A bill to provide for the price support of milk at not less than 85 per centum of parity. Referred to the Committee on Agriculture and Forestry.

By Mr. BENTSEN:

S. 2505. A bill to authorize a project for flood protection in and in the vicinity of Baytown, Texas. Referred to the Committee on Public Works.

By Mr. RIBICOFF (for himself, Mr. RANDOLPH, Mr. STAFFORD, Mr. PELL, Mr. HARTKE, Mr. JAVITS, Mr. MONDALE, Mr. WEICKER, Mr. PASTORE, Mr. BAYH, Mr. MANSFIELD, Mr. HUMPHREY, Mr. McINTYRE, Mr. INOUYE, Mr. McGOVERN, Mr. PERCY, and Mr. JACKSON):

S. 2506. A bill to amend Title XVIII of the Social Security Act to provide for the furnishing of outpatient rehabilitation services. Referred to the Committee on Finance.

By Mr. MAGNUSON (for himself, Mr. HATFIELD, Mr. JACKSON, Mr. PACKWOOD, Mr. CHURCH, Mr. McCLURE, Mr. MANSFIELD, and Mr. METCALF):

S. 2507. A bill to authorize construction of additional power generating facilities at the existing McNary Lock and Dam project, Columbia River, Oregon and Washington. Referred to the Committee on Public Works.

By Mr. MONDALE (for himself and Mr. HUMPHREY):

S. 2508. A bill to designate the new Poe lock on the Saint Marys River at Sault Sainte Marie, Michigan, as the "John A. Blatnik lock". Referred to the Committee on Public Works.

By Mr. PROXMIRE:

S. 2509. A bill to authorize and direct the General Accounting Office to audit the Federal Reserve Board, the Federal Advisory Council, the Federal Open Market Committee, and the Federal Reserve banks and their branches. Referred to the Committee on Government Operations.

By Mr. GRAVEL:

S. 2510. A bill relating to construction of natural gas pipelines for transporting Alaskan north slope natural gas to the lower forty-eight States. Referred to the Committee on Commerce.

By Mr. McCLURE (for himself and Mr. CHURCH):

S. 2511. A bill to authorize the Secretary of Agriculture to convey certain lands in the State of Idaho. Referred to the Committee on Agriculture and Forestry.

By Mr. ROTH:

S. 2512. A bill to control spending in 1975. Referred to the Committee on the Budget.

By Mr. BUCKLEY:

S. 2513. A bill to amend the Emergency School Aid Act with respect to eligibility for assistance. Referred to the Committee on Labor and Public Welfare.

By Mr. HUMPHREY (for himself and Mr. RIBICOFF):

S. 2514. A bill to establish an Emergency Intergovernmental Assistance Board and for other purposes. Referred to the Committee on Government Operations.

By Mr. KENNEDY (for himself, Mr. SCHWEIKER, and Mr. JAVITS):

S. 2515. A bill to amend the Public Health Service Act to establish the President's Commission for the protection of human subjects involved in biomedical and behavioral research, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. DOLE (for himself, Mr. McCLURE, Mr. FORD, Mr. FANNIN, Mr. HANSEN, Mr. HARTKE, Mr. BURDICK, Mr. LAXALT, Mr. HUMPHREY, Mr. STEVENS, Mr. LEAHY, Mr. McINTYRE, and Mr. PERCY):

S. 2516. A bill to provide for further assistance to Senate committees in conducting evaluations of the efficiency and economy of Federal Government programs and their operation. Referred to the Committee on Government Operations.

By Mr. BURDICK:

S. 2517. A bill to amend title 5, United States Code, with respect to the retirement of customs and immigration inspectors, and for other purposes. Referred to the Committee on Post Office and Civil Service.

By Mr. MUSKIE (for himself and Mr. HATHAWAY):

S. 2518. A bill to amend the Internal Revenue Code of 1954 to treat the noncash remuneration paid to certain workers on fishing boats as self-employment income for purposes of the Federal Insurance Contributions Act, and for purposes of Federal income tax withholding requirements. Refered to the Committee on Finance.

By Mr. HARTKE (for himself and Mr. PEARSON) (by request):

S. 2519. A bill to amend the Regional Rail Reorganization Act of 1973. Referred to the Committee on Commerce.

By Mr. HARTKE (for himself and Mr. PEARSON) (by request):

S. 2520. A bill to amend the Regional Rail Reorganization Act of 1973 to facilitate implementation of the final system plan by broadening the purposes for which assistance is available under title IV, and for other purposes. Referred to the Committee on Commerce.

By Mr. BELLMON (for himself, Mr. DOLE, Mr. HUDDLESTON, and Mr. CURTIS):

S. 2521. A bill to amend the Consolidated Farm and Rural Development Act. Referred to the Committee on Agriculture and Forestry.

By Mr. TAFT (for himself, Mr. HUGH SCOTT, and Mr. SCHWEIKER):

S. 2522. A bill to amend the Securities Exchange Act of 1934 to provide for the disclosure of certain information relating to persons intending to file tender offers and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. CRANSTON:

S. 2523. A bill to amend the Emergency Loan Guarantee Act to permit the Emergency Loan Guarantee Board to guarantee the bonds of States and municipalities. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. JAVITS:

S.J. Res. 139. A joint resolution to authorize the Secretary of the Interior to accept Saint Paul's Church, Eastchester, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIBICOFF (for himself, Mr. RANDOLPH, Mr. STAFFORD, Mr. PELL, Mr. HARTKE, Mr. JAVITS, Mr. MONDALE, Mr. WEICKER, Mr. PASTORE, Mr. BAYH, Mr. MANSFIELD, Mr. HUMPHREY, Mr. MCINTYRE, Mr. INOUYE, Mr. MCGOVERN, Mr. PERCY, and Mr. JACKSON):

S. 2506. A bill to amend title XVIII of the Social Security Act to provide for the furnishing of outpatient rehabilitation services. Referred to the Committee on Finance.

MEDICARE COVERAGE FOR REHABILITATION CENTERS

Mr. RIBICOFF. Mr. President, today, I am introducing legislation to bring some logic, simplicity and fairness to the medicare system as it affects outpatient rehabilitation facilities.

I am pleased that Senator JENNINGS RANDOLPH, the chairman of the Subcommittee on the Handicapped and an expert in the field of rehabilitation, has joined with me in offering this bill. Also joining as cosponsors are Senators STAFFORD, PELL, HARTKE, JAVITS, MONDALE, HUMPHREY, WEICKER, PASTORE, BAYH, MANSFIELD, MCINTYRE, MCGOVERN, PERCY, JACKSON, and INOUYE.

The bill will rectify a long-standing oversight in medicare by finally recognizing outpatient rehabilitation centers as providers under medicare and reimbursing them for the service which they provide. At present, only outpatient rehabilitation centers connected with a hospital are eligible for medicare reimbursement for a full range of services. Other centers are limited to payment for physical and speech therapy.

The step I am proposing makes outpatient centers more accessible to medicare beneficiaries, many of whom are now forced either to pay out of pocket for therapy or to receive treatment in the hospital or at an outpatient center connected with the hospital. Often this means more expensive treatment.

The patients who use these centers generally must undergo long periods of treatment. Typically they need rehabilitation to overcome disabling conditions produced by traumatic injuries, stroke, spinal cord injuries, neurological disorders, and cardiac problems. Rehabilitation is often essential to avoid recurrent hospitalization or admission to a nursing home.

At a time when programs such as medicare are becoming more and more costly it makes no sense to disallow medicare coverage in facilities which can provide high quality care at a relatively low cost. In the long run, we can save tax dollars by allowing patients to use the services of outpatient rehabilitation centers, and we can save costs for medicare beneficiaries who are hit hardest by inflation.

In Connecticut, we are most fortunate to have a strong network of outpatient facilities. In fact, a large portion of the capacity to provide high quality outpatient rehabilitation services rests with rehabilitation centers which are independent of hospitals. Through the seven comprehensive medical rehabilitation centers sponsored by the National Easter Seal Society, high quality care is provided not only in the centers but in the home and nursing homes as part of the Easter Seal outreach program.

In Connecticut, these centers are an integral part of our health care system and they have proved their effectiveness. They have enabled and assisted individuals in returning to their homes and gainful lives instead of being confined to nursing homes or hospitals. We recognize in our State that the traditional settings for medical care; for example, private doctors offices, hospitals, and nursing homes—must be updated to include new modes of care.

Specifically, my bill would make outpatient rehabilitation facilities eligible for rembursement as providers under medicare for services which are covered under part B, if provided by an outpatient department of a hospital.

In addition, the Ribicoff proposal eligible for reimbursement. While medicare reimburses a hospital for all of the rehabilitation care it provides, including physicians' services, nursing care, occupational therapy, and other services such as inhalation therapy, medical social services, and the services of a licensed psychologist, nonhospital centers are not reimbursed.

Thus, while outpatient rehabilitation facilities often provide the same scope and quality of care rendered to outpatients by a hospital, such facilities are not treated the same as outpatient departments of hospitals. This is the case despite the fact that evidence from Connecticut indicates that rehabilitation centers provide care at almost 50 percent the cost of outpatient departments of hospitals. The result of present law is therefore to discriminate: Covering medicare beneficiaries who are in a position to obtain such services from a hospital and to deny coverage to beneficiaries who look to a rehabilitation facility for identical care. The result is also to encourage more costly care.

An additional inconsistency is that the present law does cover many of the services provided by a comprehensive medical rehabilitation center if provided under arrangements with a home health agency or a nursing home, but not if provided at the outpatient center. Skilled nursing facilities and home health agencies are reimbursed for nursing care, occupational therapy, medical social services, and in the case of a nursing home, any of the other rehabilitation services they ordinarily provide. It makes no sense to cover such services in the nursing home setting or in the home but not in an outpatient rehabilitation center. First, we should be encouraging outpatient care rather than discouraging it relative to institutional care. Second, the center often cannot provide its care in the home due to the nature of the equipment used. It is often less costly to transport the patient to the center where a number of services can be provided than to transport a number of professionals to the home.

Also, by treating the rehabilitation center as an equal partner in the health care system with hospitals, nursing homes, and home health agencies, my bill will serve to stimulate additional alternatives for those needing long-term care. It will foster the provision of rehabilitation care by these community-based centers for those who need not be institutionalized but do need rehabilitation health care and need it to the degree that home health care is not appropriate or efficient. In the comprehensive center, a chronically ill or disabled medicare beneficiary may receive a physician's services, nursing services, physical therapy, speech therapy, occupational therapy, or medical social services. In other centers, only a single service may be offered such as speech therapy, but the nature of the services and equipment may necessitate a visit to a center, rather than a home visit. By expanding such cummunity based care, my bill will assist in developing the resources necessary to enable our elderly and disabled to remain in their homes with their families and in a setting they know rather than in institutional settings which are foreign to them, costly and encourage their dependency.

To avoid any question in administration, my bill contains a definition relating to outpatient rehabilitation services. I wish to emphasize that this definition reflects those services which are now covered by medicare when provided to outpatients by a hospital. The inclusion of this definition is not intended to establish a new benefit under medicare, but rather to clarify a benefit which exists in the course of permitting its provision in a different setting. The definition provided includes the requirement, long a part of rehabilitation, that there be a plan for each patient specifying goals of improved function or the prevention of deterioration in function. Medical rehabilitation has long held itself accountable for such measurable goals which results in many respects in the effectiveness of the program.

The bill also includes a definition of rehabilitation services to clarify in the law what rehabilitative care is, both inpatient and outpatient. Just recently two decisions in the Federal district courts were necessary to attempt to clarify this area, and I do not believe the medicare beneficiaries should have to resort to the courts to receive that to which they are entitled. In these two cases, Westgard against Weinberger and Shiffer against Weinberger, chronically ill elderly people were denied reimbursement under medicare for rehabilitation care, because the intermediary and HEW overruled the judgement of the attending physician and the utilization review committee that inpatient rehabilitative care was necessary and not custodial. This definition specifies that the care may be restorative or preventive. Hopefully, this

definition will provide direction to HEW so that future court action in this important area of rehabilitative care is unnecessary. It should also be clear from this definition that the judgment as to the type and level of care is one determined by the various professionals involved and specified in the plan.

This bill is consistent with a variety of amendments added to medicare in recent years to encourage the provision of covered services on an outpatient basis and to reduce the emphasis on inpatient care with its high costs. The bill defines outpatient rehabilitation services to include the following: Physician services, including diagnostic, evaluation, and therapeutic services; physical therapy, occupational therapy, inhalation therapy, and speech therapy prosthetic and orthotic devices, including testing fitting or training in the use of prosthetic or orthotic devices; social and psychological services; nursing care provided by or under the supervision of a professional nurse; supplies, appliances, and equipment; such other services as are medically necessary for the mental and physical restoration of the patient, or the prevention of his deterioration, and are ordinarily furnished by a hospital.

Outpatient rehabilitation facilities are typically community-based, nonprofit organizations similar in organization and governance to hospitals, but providing services on an outpatient basis. A number are affiliated with national organizations identified with physical restoration, such as the Easter Seal Society. Outpatient rehabilitation facilities are generally subject to State licensing and may be accredited by the Commission on the Accreditation of Rehabilitation Facilities. To assure that adequate standards of care apply to services provided by such facilities as a public or private institution which is primarily engaged in providing a program of diagnostic, therapeutic, and restorative services under the direction of physicians to outpatients addressed to the rehabilitation of injured, disabled, or sick persons; maintains adequate clinical records on all patients; has bylaws in effect with respect to its staff or physicians; has a requirement that every patient must be under the care of a physician; provides nursing services rendered or supervised by a registered professional nurse consistent with the needs of its patients; is licensed pursuant to such law, or is approved by the agency meeting the standard established for such licensing; meets such other requirements as the Secretary finds necessary in the interests of the health and safety of patients served by the institution.

Mr. President, I have received valuable counsel in the preparation of this bill from a number of national organizations concerned with rehabilitation, such as the National Easter Seal Society for Crippled Children and Adults, the Connecticut Easter Seal Society and personnel from the local Easter Seal Centers in Connecticut, the International Association of Rehabilitation Facilities, the American Congress of Rehabilitation Medicine, and the Academy of Physical Medicine and Rehabilitation. These organizations and others in the field of rehabilitation care support this bill. Dr. Howard Rusk, the eminent leader in the field of rehabilitation, supports this bill, as do many other leaders in the field of rehabilitation such as Edmund McLaughlin, the director of the Bridgeport, Conn., Easter Seal Rehabilitation Center, and former president of the Easter Seal Executives Association.

By Mr. MAGNUSON (for himself, Mr. HATFIELD, Mr. JACKSON, Mr. PACKWOOD, Mr. CHURCH, Mr. MCCLURE, Mr. MANSFIELD, and Mr. METCALF):

S. 2507. A bill to authorize construction of additional power generating facilities at the existing McNary Lock and Dam project, Columbia River, Oregon and Washington. Referred to the Committee on Public Works.

Mr. MAGNUSON. Mr. President, I am pleased to join with my colleagues in introducing legislation authorizing the Corps of Engineers to construct a second powerhouse at McNary Dam on the Columbia River.

Construction of the second powerhouse with, initially at least, 10 105-megawatt generating units, has been recommended by the Walla Walla district engineer, the North Pacific division engineer, and the Board of Engineers for Rivers and Harbors. A draft environmental impact statement was filed with the Council on Environmental Quality on August 22, 1975. In accordance with normal procedure, the Chief of Engineers on August 25 formally advised relevant State and Federal agencies of the Board's recommendation. Those agencies have 90 days in which to make any comments, and a final EIS will be filed following that period. Then the Secretary of the Army, through the Office of Management and Budget, can request Congress to authorize the project.

I certainly expect the administration will request Congress to authorize the project once the normal review process is completed, and I urge that the process be completed as rapidly as possible. However, my colleagues and I are introducing the necessary legislation now for the specific purpose of assuring that it may be acted upon by the Public Works Committee during its forthcoming consideration of the omnibus water resources development bill. I understand the Water Resources Subcommittee will begin its hearings on the bill later this month.

There is no doubt in my mind that Congress will ultimately authorize the Second McNary Powerhouse. Given the energy crisis, then, I believe it would be foolish indeed if Congress did not authorize the project in the forthcoming omnibus bill and thus assure the earliest possible construction start.

Energy, economic, and environmental considerations all argue for rapid completion of the second powerhouse.

As with the electricity produced by the existing generators at McNary Dam, the power generated by the additional units in the second powerhouse will be distributed through the Bonneville Power Administration transmission system to Washington, most of Oregon, about half of Idaho, Montana, and parts of Wyoming, Utah, and California. Electricity consumption in the region has been increasing at an annual rate of about 6 percent, and BPA as well as the Pacific Northwest Utilities Conference Committee presently estimate the demand for electricity will continue rising at that 6 percent rate. The region's utilities have underway 18 major thermal units which represent a non-Federal investment estimated at $13 billion. These and existing thermal plants will soon provide the bulk of the region's base electricity requirement. However, additional hydroelectric generating capacity such as the Second McNary Powerhouse still must be built if we are to even come close to meeting the region's future electricity requirements. This additional hydro capacity will be particularly essential for providing electricity during peak-demand periods.

The economic justification for the Second McNary Powerhouse is strong and compelling. The Corps of Engineers estimates construction of the powerhouse together with necessary ancillary facilities will cost $318 million. All but $498,000 of that cost will be paid back with interest to the general treasury over 50 years from power revenues. The annual benefit-to-cost ratio will be an extremely favorable 2.3 to 1.

Additionally, the Corps has determined that it would cost $29,035,000 more every year to produce the power that will be generated by the second powerhouse if that power were instead generated by the most likely alternative. We should note, too, that the annual power-producing potential of the proposed 10-unit powerhouse is equivalent to 1,260,000 barrels of oil. Given the priority attached to reducing oil imports, I do not think we need belabor the point. Suffice it to say that in building the Second McNary Powerhouse to help maximize the hydroelectric potential of the Northwest we will also be helping to reduce the Nation's consumption of imported oil.

Finally, given the necessity to build additional generating capacity, it makes much sense from an environmental perspective to construct the second McNary powerhouse. Like all hydroelectric projects, it will offer the substantial environmental advantages that come from using falling water, a nonpolluting renewable resource, to generate electricity. At the same time, construction of the powerhouse will not require construction of another dam, the chief environmental liability of hydroelectric generation. Instead, the new powerhouse will serve to maximize the power-producing potential of the existing dam. At the same time, by reducing spillage over the dam during high-water periods, the new powerhouse will also lessen the serious problem of nitrogen supersaturation of river water that often kills young fish migrating past dams.

Mr. President, I ask unanimous consent to have the text of the bill we are introducing printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to construct additional power generating facilities and appurtenant features at the existing McNary Lock and Dam, Columbia River, Oregon and Washington, substantially in accordance with the recommendations of the Chief of Engineers in Senate Document Numbered 94– , at an estimated cost of $318,000,000.

CONSTRUCTION OF A SECOND POWERHOUSE AT M'NARY DAM WILL AID IDAHO

Mr. CHURCH. Mr. President, I join today with my colleagues from Idaho, Washington, and Oregon in introducing legislation to authorize the construction of a second powerhouse at McNary Dam. I have long felt that if we are to preserve in a natural state many of the free flowing rivers in the West, we must make the fullest possible use of existing structures. That is what this legislation to authorize the construction of a second powerhouse at McNary Dam would do.

As Senator MAGNUSON has pointed out, this project makes good sense environmentally. It requires the construction of no new dam. It will reduce spillage over McNary Dam in high power periods, reducing the problem of nitrogen supersaturation which often kills fish migrating past dams, and it does not raise the existing dam or increase its backwaters. It simply utilizes a resource currently available which is now being wasted.

The power produced by this new structure will be distributed to Idaho, Washington, and Oregon as well as Montana, portions of Wyoming, California, and Utah.

The economic arguments for the second powerhouse are strong, indeed. All but $498,000 of the cost of the structure will be repaid to the Government with interest over a period of 50 years from the revenues generated from power production. The annual power producing capacity of the second powerhouse is equal to 1,260,000 barrels of oil which is no small consideration when we remember the problem of oil dependency facing our Nation.

I am hopeful that the effort undertaken today will result in expediting the beginning of a necessary and justifiable project.

By Mr. MONDALE (for himself and Mr. HUMPHREY):

S. 2508. A bill to designate the new Poe lock on the St. Mary's River at Sault Sainte Marie, Mich., as the "John A. Blatnik Lock." Referred to the Committee on Public Works.

Mr. MONDALE. Mr. President, I speak today in tribute to one of Minnesota's most effective Congressmen; a man who will be long remembered by this Nation for his farsighted interest in the development of the Great Lakes and the St. Lawrence Seaway; my dear friend and distinguished colleague, Congressman John Blatnik.

Mr. Blatnik was first elected to Congress in 1946. Through 28 years of active and distinguished public service, until his retirement last year, he has been one of the greatest champions of the development of the St. Lawrence Seaway and of the improvement of navigation in the Great Lakes. He sponsored both the legislation authorizing construction of the seaway, and the legislation deepening and widening the connecting channels of the Great Lakes to depths commensurate with those of the seaway. As chairman of the House Public Works Subcommittee on Rivers and Harbors, Mr. Blatnik also authored legislation deepening the major harbors of the Great Lakes to accommodate ocean-going vessels. He has truly played a vital role in opening the ports of the Great Lakes to the trade routes of the world. His actions have helped bring prosperity to a great many people of the upper Midwest and throughout the Nation.

Mr. President, it is for these reasons that I am today introducing a bill to designate the new Poe lock on the St. Mary's River in Sault St. Marie, Mich., as the "John A. Blatnik lock."

The Blatnik lock would be a fitting and proper tribute to this great man; for as chairman of the Rivers and Harbors Subcommittee, he presided over its construction. It was during his service, in 1968, that it was completed and first opened to navigation. It is the largest of the interstate locks on the Great Lakes with a 1,200-foot length, a 110-foot width, and a 32-foot depth, and it is a crucial link in the water system connecting the Mesabi iron range, of Mr. Blatnik's own district, to the Chicago-Gary industrial complex of Lake Michigan. Its grand dimensions have permitted the utilization of "superlakers"; enormous 1,000-foot ore boats which carry iron ore and taconite from the Duluth area to the Lake Michigan industrial centers. The larger scale, being more economical, has encouraged the development of domestic iron ore for the Nation's important iron and steel industries rather than forcing the Nation to rely on imports from Labrador. It is in part the foresight and planning of Mr. Blatnik which has given the Great Lakes area its share of our Nation's commerce.

Mr. President, this legislation passed the House last year, but did not receive consideration in the Senate. I, therefore, urge its adoption, as a fitting and proper tribute to this great and distinguished man.

By Mr. PROXMIRE:

S. 2509. A bill to authorize and direct the General Accounting Office to audit the Federal Reserve Board, the Federal Advisory Council, the Federal Open Market Committee, and the Federal Reserve banks and their branches. Referred to the Committee on Government Operations.

Mr. PROXMIRE. Mr. President, I am introducing today a bill to authorize and direct the General Accounting Office—GAO—to audit the Federal Reserve System on a regular basis.

This legislation would place the Federal Reserve on an equal footing with other major Federal agencies, such as the Federal Home Loan Bank System, the Department of Defense, and the Treasury Department, all of which are routinely audited by the GAO to determine whether they are operating efficiently and economically and in accordance with the basic laws under which they were established.

Congress has the responsibility to oversee the various entities of the Federal Reserve System, just as it has oversight responsibility for all other parts of the Federal Government. The General Accounting Office, which is an arm of Congress, is the mainstay of this oversight function. The GAO provides Congress with independent and objective evaluations of how well agencies are performing, makes recommendations for improvements, and supplies other information for Congress to use in carrying out its legislative and oversight responsibilities.

The legislation I am proposing is virtually identical to H.R. 7590, sponsored by Congressman PATMAN and 120 other Members of the House of Representatives. This bill has been reported by the House Banking Committee. Let me now outline what my bill does.

First, it authorizes the Comptroller General to audit all parts of the Federal Reserve System—the Board of Governors, the Federal Advisory Council, the Federal Open Market Committee, and all the Federal Reserve banks and their branches and facilities, including transactions of the system open market account. In order to carry out this task, GAO is given full and unconditional access to all books, accounts, records, and any other papers and property belonging to or in use by the entities being audited, including examination reports of member banks.

Second, the bill directs the Comptroller General to report to Congress, within 6 months after the end of each fiscal year, on the results of the audit work performed for that year. He is also authorized to make any special or preliminary reports he feels are advisable to meet the needs of the Congress. The reports shall include any comments and recommendations which the Comptroller may deem advisable, based on the findings of the audit work. These would include recommendations for more efficient and economical administration of the system, and the reports would also point out any program, financial transaction or undertaking carried on without adequate statutory authority.

The bill makes it clear, however, that the GAO reports shall not make any recommendations with respect to monetary policy. Congress already conducts extensive oversight hearings on the Federal Reserve's monetary policy every 6 months, as provided in House Concurrent Resolution 133. So far as I know, the Comptroller General has never claimed that the GAO ought to or has the capability to make any recommendations regarding monetary policy, and in any case the bill specifically prohibits GAO from getting into monetary policy.

Finally, the bill authorizes GAO to employ additional permanent and temporary employees needed to carry out its responsibility to audit the Federal Reserve System.

Mr. President, there is an obvious and compelling need for a full, thorough, and continuing GAO audit of the Federal Re-

serve System's operations and expenditures.

Consider the magnitude of the Fed's operations. As of December 31, 1974, the system held about $86 billion in U.S. securities, which amounts to about 20 percent of the national debt. In 1974, the 12 Reserve Banks had total income from operations of $6.3 billion, of which 96 percent was derived from interest on these securities. Also last year the Federal Reserve System spent $548 million for its administrative operations. Of this amount, the Board of Governors alone spent $43 million, about 8 percent of the total. Furthermore, Federal Reserve spending has risen rapidly—over 200 percent in the last 10 years. To a large extent, this reflects added responsibilities imposed by Congress. During the same period, the Federal budget, as a whole, has risen by 126 percent.

Can anyone argue that Congress does not have a responsibility to the American people to conduct thorough oversight of the Federal Reserve System, which carries out such diverse and essential tasks as food stamp redemption, currency destruction, and check clearing. And, would anyone argue that Congress can do a decent job of overseeing the Fed in the absence of regular audit reports from the General Accounting Office?

The bill I am introducing today gives the GAO authority to audit all of the operations and activities of the Federal Reserve System, and to receive all information necessary to perform this task, without exception.

Some have argued that many of the system's records and transactions are too sensitive to expose to GAO scrutiny. I see no grounds for such fears. The GAO routinely has access to information just as sensitive, if not more so, from other Federal agencies, such as the Defense Department, and the strict procedures the Office has established for handling such information insure that no improper disclosure can take place, and none ever has.

I should point out that, as an additional safeguard, the legislation includes specific language prohibiting GAO from identifying individual transactions in its reports. However, in view of the Office's own policies regarding confidentiality, I personally do not feel such language is really necessary to protect sensitive information.

It is vital, though, that GAO's access to this information be complete and unimpeded, or it cannot adequately perform its audit responsibilities. As Comptroller General Staats pointed out in a letter to Congressman PATMAN:

> If the auditor is deprived of important information, there is no way he can be expected to make a fair and objective audit that takes into account all important factors relating to the problems being evaluated.

Mr. President, the proposal to authorize GAO to audit the Federal Reserve is important legislation. It is also a thoroughly reasonable proposal.

I believe there has been a great deal of misunderstanding about this legislation—misunderstanding which has generated controversy going far beyond the intent and potential impact of the measure. There is no intent to involve GAO in monetary policy. The bill in fact precludes such involvement.

As one who has dealt with the GAO on numerous occasions over the years, I can assure my distinguished colleague that GAO audit reports are always thorough and balanced and scrupulously fair to all parties concerned.

Finally, I feel compelled to point out that most agencies can and do gain considerably from having the benefit of GAO's expert advice and recommendations for better management. The agency gains, and so does the American taxpayer. The General Accounting Office has estimated that recommendations made in connection with its audits of various Federal agencies in calendar year 1974 alone would achieve a one-time savings of $562 million and that of the total, $166 million in savings would recur annually thereafter. Furthermore, the audited agencies have agreed with these estimates.

For all these reasons, Mr. President, I believe that we need GAO audits of the Federal Reserve System, and the bill I am introducing today will give GAO full authority to make such audits.

The Senate Committee on Banking, Housing and Urban Affairs, of which I am chairman, will hold hearings on S. 2285, the Federal Reserve Act Amendments of 1975, on October 20, 21, and 24. Because the audit bill, like S. 2285, is concerned with making the Federal Reserve more accountable to Congress, the committee will consider it as well in the course of those hearings.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 2509

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Comptroller General of the United States shall, under such rules and regulations as he shall prescribe, audit the Federal Reserve Board, the Federal Advisory Council, the Federal Open Market Committee, and all Federal Reserve banks and their branches and facilities, including transactions of the System Open Market Account.

(b) In making the audit required by subsection (a), representatives of the General Accounting Office shall have access to books, accounts, records, reports, files, and all other papers, things, accounts, records, reports, files and all other papers, things, and property belonging to or in use by the entities being audited, including reports of examinations of member banks, from whatever source. Except that reports required by subsection (c) shall not identify individual transactions. They shall be afforded full facilities for verifying transactions with balances or securities held by depositaries, fiscal agents, and custodians of such entities.

(c) The Comptroller General shall, within six months after the end of each fiscal year, or as soon thereafter as may be practicable, make a report to the Congress on the results of the audit work performed for such year, and he shall make any special or preliminary reports he deems desirable for the information of the Congress. A copy of each report made under this subsection shall be sent to the President of the United States, the Federal Reserve Board, and the Federal Reserve banks. In addition to other matters, the report shall include such comments and recommendations as the Comptroller General may deem advisable, including recommendations for attaining a more economical and efficient administration of the entities audited, and the report shall specifically show any program, financial transaction, or undertaking observed in the course of the audit which in the opinion of the Comtproller General has been carried on without authority of law: *Provided, however,* That the reports made pursuant to this subsection shall not contain any recommendations with respect to monetary policy.

(d) In carrying out his responsibilities of this Act, the Comptroller General is authorized to employ not to exceed five experts on a permanent basis, and other employees on a temporary or intermittent basis, at a rate (or the daily equivalent) for individuals not to exceed that prescribed, from time to time for level V of the Executive Schedule under section 5316 of title 5, United States Code.

By Mr. GRAVEL:

S. 2510. A bill relating to construction of natural gas pipelines for transporting Alaskan North Slope natural gas to the lower 48 States. Referred to the Committee on Commerce.

Mr. GRAVEL. Mr. President, today I am introducing a bill which is vital to the expansion of our domestic supply of natural gas. It is a bill to expedite the decisionmaking process on the selection of a route for a natural gas pipeline which would bring gas from the North Slope to consumers in the lower 48.

As I am sure my colleagues are aware, there are two competing pipeline projects. One, the Arctic gas project, would bring a pipeline from Prudhoe Bay to the Mackenzie Delta and down the length of Canada. The second project, the El Paso project, proposes to build a gas pipeline which would parallel the present trans-Alaska oil pipeline route. The gas would be liquefied at Gravina Point and shipped via tanker to Los Angeles where it would be regassified and distributed via existing pipelines. Both of these companies have filed with the Federal Power Commission for a certificate of convenience and necessity. Hearings began in March and their completion date is unknown.

The gas reserves in the Prudhoe Bay area are vital to the Nation's future. DeGolyer & MacNaughton, a firm of oil and gas geologists, have estimated the proven salable reserves to be approximately 24 trillion cubic feet, or more than 10 percent of the Nation's gas reserves. Moreover, that firm stated that exploration of the area has just begun. Potential reserves of 114 trillion cubic feet are "reasonable," according to their research. The real solution to our Nation's natural gas shortage is contained in the fullest possible development of these reserves.

Gas curtailments have increased an average of 30 percent over last year's figures. The shortage this winter is expected to have a substantial impact on unemployment.

Even the recent encouraging action of the Senate in supporting the concept of deregulation will not do as much for our Nation's economic well-being as will the development of new gas reserves in the frontier areas. Time is of the essence in this situation. We cannot afford to have

the decision on the route of the gas pipeline unduly delayed within the executive agencies or in the courts.

This legislation would require the Federal Power Commission, the Department of the Interior, and any other appropriate agencies to render a decision on the route by June 30, 1976. This would give them ample time to conclude their hearings, evaluate the evidence and arrive at a decision if the agencies are not forced to posture themselves for a judicial review of this matter. It is this preparation for possible judicial review that is so time-consuming in the regulatory process. It can force an agency to go far beyond a reasonable and prudent evaluation of the facts surrounding a controversy. It can drag out the proceedings for many extra months.

My legislation attempts to remedy this situation by substituting congressional review for judicial review except as it relates to claims which allege the invalidity of this section or the denial of of rights under the Constitution of the United States. These claims must be filed within 60 days of the enactment of this law. Any such proceeding shall take precedence over other matters on the docket and shall be expedited in any way possible.

Under this legislation the final decision of the Federal Power Commission, the Department of the Interior and any other agencies shall take effect at the end of a 60-day period beginning on the day the decisions are transmitted by the Chairman of the FPC, the Secretary of the Interior and any other Federal officers to the Speaker of the House of Representatives and the President of the Senate. It will take effect only if both Houses of Congress do not enact a resolution disapproving such decision within the 60-day period.

Mr. President, this matter is of crucial importance to our effort to become energy independent. Congressional involvement of this sort is proper. During the past 2 years, we in the Congress have avoided taking meaningful action toward energy self-sufficiency. The authorization of the trans-Alaska oil pipeline has been the only thing we have done to increase the supply of domestically-produced oil and gas since the embargo. Expediting the approval of the decision on the gas pipeline would be just as significant.

By Mr. McCLURE (for himself and Mr. CHURCH):

S. 2511. A bill to authorize the Secretary of Agriculture to convey certain lands in the State of Idaho. Referred to the Committee on Agriculture and Forestry.

Mr. McCLURE. Mr. President, today Senator CHURCH and I introduce a bill to permit the Secretary of Agriculture to convey by quitclaim deed, for not less than fair market value, certain lands in Boise, Idaho. The lands are presently used for vehicle storage and shops and no longer adequately serve this purpose. The Forest Service desires to exchange this property, for fair market value, and to apply the proceeds of such sale to the construction of like facilities on another site. Precedent for this exists in 81 Stat. 464.

A successful exchange out of this property location would require any new owner to comply with all existing city code and zoning requirements. Any sale would be made only after the Secretary solicits public offers and only after careful consideration that the offers are in the public interest. The Forest Service anticipates using the funds from the property sale to construct like facilities on suitable property near the Boise Interagency Fire Center. This land is already in public ownership and is ideal for this purpose.

By Mr. ROTH:

S. 2512. A bill to control spending in 1975. Referred to the Committee on the Budget.

Mr. ROTH. Mr. President, I am today introducing legislation to force Congress to cut back Federal spending by an amount equal to any new tax cut. The President's approach to combine the tax and spending cuts makes sense and this legislation will enable Congress to accomplish that objective. While the final size of the tax and spending cuts may change as more information is developed on the economic situation, this legislation, sets the spending ceiling at $395 billion, enough to provide substantial reductions in income taxes.

I am sympathetic to the President's idea of a permanent reduction in income taxes to provide further stimulation to the economy, although I believe that there are other tax cut alternatives we should explore, such as my proposal to reduce income tax rates by the rate of inflation.

However, any tax cut that we adopt must be contingent on a substantial cutback in Federal spending. The President has said that he wants a commitment from Congress to hold the line on spending. But I believe that it is unrealistic to believe that a congressional promise to hold down spending would be kept in an election year. With so many Members of Congress running for President on big spending promises, I do not think we should risk runaway inflation by relying on an unreliable congressional pledge.

I believe that Congress should enact a bill setting a firm ceiling on Federal spending the same day it passes a tax cut bill.

Therefore, I intend to offer this spending ceiling legislation as an amendment to the tax cut bill in the Senate Finance Committee. If the committee refuses to accept the amendment, I plan to offer it on the Senate floor to see if Congress is really serious about reducing spending. While the legislation I am introducing today requires a $28 billion spending cut, I will be prepared to adjust the figure to whatever is the actual size of the final tax cut.

Unlike a vague commitment or pledge, Congress would not be able to ignore legislation setting a firm spending ceiling that is signed into law by the President. If this ceiling is signed into law as part of the tax cut legislation, the only way Congress could increase spending would be to pass a new law raising the ceiling. That type of bill would be subject to a Presidential veto, meaning that two-thirds of the Congress would have to be in favor of increased spending.

This procedure would be much more preferable to the existing congressional budget resolution procedure that enables Congress to set a rubbery ceiling on spending in the beginning of the year and then increase the ceiling as spending increases.

This spending ceiling legislation will put Congress feet to the fire and force it to stop spending the people's money. Combined with a tax cut, it will allow the people to decide for themselves how to spend their own money.

Congress has already wasted too much time talking and making excuses for its big spending habits. Members of Congress may benefit from their politically popular spending programs, but the average working family has to pay for these spending programs in higher taxes and increased inflation. Last year, the average American family spent a larger portion of its budget on personal income taxes, more than on food, clothing, or housing.

We must take action now to cut the growth of Government spending programs. The American people recognize that Federal deficits of $70 billion and Government expenditures of more than $1 billion a day are a primary cause of our economic problems, and its time that Congress recognized this.

A drastic cut in Government spending and taxes will increase all Americans' purchasing power, reduce the amount of Government borrowing, lower interest rates, and provide more capital for the creation of new jobs.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2512

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as "The Spending Control Act of 1975."

SEC. 2. The Congress finds and declares that:

(a) The President, in his address to the nation on October 7, 1975, requested Congress, in conjunction with a reduction in Federal income taxes, to establish a ceiling for budget expenditures and net lending during the fiscal year beginning October 1, 1976, of $395,000,000,000;

(b) The recurrent economic problems of increasing inflation and excessive levels of unemployment require a substantial reduction in the growth of Federal spending and taxation to increase consumer purchasing power and to reduce the level of Government borrowing.

SEC. 3. (a) Expenditures and net lending during the fiscal year beginning October 1, 1976, under the budget of the United States Government shall not exceed $395,000,000,000.

By Mr. BUCKLEY:

S. 2513. A bill to amend the Emergency School Aid Act with respect to eligibility for assistance. Referred to the Committee on Labor and Public Welfare.

Mr. BUCKLEY. Mr. President, I am today introducing a companion bill to legislation being introduced in the

House by Congressman LAFALCE of the 36th District of New York which would amend the Emergency School Aid Act with respect to eligibility for assistance thereunder.

The Senate has just concluded a rather extended consideration of the amendment sponsored by the junior Senator from Delaware (Mr. BIDEN) which would have prohibited HEW from conditioning the receipt of any grants arising out of the Emerging School Aid Act on the assignment of students or teachers to schools other than those made by the local educational authority. Unfortunately, the Senate did not retain this important language. But I, and many other Members of this body, continue to feel that there are good and sufficient reasons why HEW should not have the authority to order under an assignment or reassignment in the absence of a court order finding that the local school authorities are guilty of acts of discrimination.

Last Monday, I had the privilege of chairing hearings in Buffalo, N.Y., on the matter of a continuing controversy between that city's school system and the Department of Health, Education, and Welfare. HEW has determined that the Buffalo public schools are not in compliance with the Civil Rights Act of 1964 because of what HEW determined to be an improper assignment of majority and minority faculty personnel in the individual schools within the school system. There was no charge by HEW that the Buffalo schools had in fact discriminated. What had happened was that a computer run of the faculty's racial composition in the various schools did not match the ratios deemed acceptable by the Department. The Department then announced that the renewal application for a $1.5 million grant under ESAA had on those grounds been rejected.

Mr. President, I have great difficulty with any Federal policy which requires the assignment of teachers or students to schools according to race. After holding the hearings at which many members of the community made their analyses, stated the consequences which would arise if the community capitulated, and voiced their opinions, I have tentatively concluded that there is something very wrong with HEW's present enforcement program. I do intend to report in the future more fully on the matter of the Buffalo Schools controversy, but by way of a tentative report I should like to share with my colleagues just two of the consequences to Buffalo which would arise under the HEW policy.

Among the persons from whom I heard was Mrs. John Mayo, the chief officer of the now famous Build Academy. The academy has been something of an experiment in community control of schools. While the Academy in part of the Buffalo public school system, it is allowed to operate along guidelines which are the product of the academy's own decisionmaking systems, which include administrators, teachers and, most importantly parents. One additional fact which I feel should be considered relevant to the case is that the Build Academy is a largely, if not exclusively, an institution of black Americans. It is predominantly black by virtue of the deliberate choice of black parents who are seeking the best possible educational opportunities for black children. It is organized on the proposition that parents, black or white, wish to control their own schools and to have a direct role in determining the destinies of their young.

What would happen to the Build under the HEW edict? It would be no less than destroyed. Nineteen out its 26 teachers would have to be transferred to come into compliance with HEW. Teachers, who volunteered to join the academy and who had to pass muster of parental oversight groups, would be transferred because HEW cares more for abstract doctrines than for community control over their public educational institutions.

The second consequence would be to disrupt, at the beginning of a school year experienced teams of teachers representing educational continuity of a kind highly important to quality education. Under the HEW orders some of the best and brightest of teachers, black and white, would be transferred without regard to any qualification other than race. Whether the teacher likes his or her assignment, whether the parents like the teacher, whether the teacher is doing his or her job are all equally disregarded in favor of an HEW computer, located in New York City, which comes up with a computer run which in effect says you cannot run your schools that way.

Mr. President, I think we all have had too much of this arbitrary, mindless pursuit of racial quota policies. It is important to note that we are not talking about a racist school system. Yet Buffalo and dozens of other communities throughout the country are being treated as if they are.

Mr. President, I send my bill to the desk and ask that it be appropriately referred.

I call upon the committee with jurisdiction, the Senate Committee on Labor and Public Welfare, to hold hearings on this legislation as soon as is practicable. Moreover, I call upon the Committee to go out into the country, to get away at least temporarily from those in HEW, to hear what the people are saying about HEW's and the Federal Government's policies on the matter of mandating racial quotas. They should hold their hearings in Buffalo so that they might hear the compelling testimony I have heard. There is a need for the committee to hear from the people who are out there working, and doing their best for their children. It is time Washington heard from more than those organizations based here which have been formed to support these policies but which while well motivated are clearly out of touch with America.

By Mr. HUMPHREY (for himself and Mr. RIBICOFF):

S. 2514. A bill to establish an Emergency Intergovernmental Assistance Board and for other purposes. Referred to the Committee on Government Operations.

EMERGENCY INTERGOVERNMENTAL ASSISTANCE ACT OF 1975

Mr. HUMPHREY. Mr. President, I rise today to introduce the Emergency Intergovernmental Assistance Act of 1975, legislation which will provide a source of credit to States and municipalities which are unable to obtain financing today. It is a reasonable and sensible approach which incorporates stringent controls on the Federal Government's commitment.

I must confess that New York City's financial crisis is one of the most complex issues that I have confronted in my many years of public service. Uncertainties abound at every turn and few have been able to sort fact from fallacy. Even the most distinguished experts have been unable or unwilling to clearly and substantively identify the scope and dimensions of the problem. Yet, every possible public solution, including the "do-nothing-until-default" alternative advocated by the administration, carries with it great risks and undetermined liabilities.

However, if one examines this issue more carefully, it is clear that the question before the Congress is not "Should the Federal Government provide assistance to New York City?" but, rather, "Should the Federal Government provide assistance before or after default?"

Let me explain to my colleagues what I mean by this statement. If the Federal Government does not assist New York City by mid-December, the city will most probably default on its obligations before the end of the year. But the act of default will not eliminate the need for the city to borrow. The city will have to borrow approximately $1 billion in January, February, and March in anticipation of real revenues that will be received later in the fiscal year.

In addition, the city will have to borrow to help cover the deficit this year—a borrowing which even those who are calling for large cuts in the operating budget of the city realize is necessary. If the city cannot obtain these funds—which is most probable if the city were in default—it would simply be unable to meet payrolls, to issue assistance checks and to provide services. Clearly, the result would be chaos. At this point, the Federal Government would have no choice but intercede.

It is this fact of life which causes me to conclude that there is no constructive purposes to be served by default. Federal assistance will be necessary even subsequent to default. In fact, the need for Federal assistance may even be greater if the effects of default are as serious as some have projected.

New York City's financial crisis is undoubtedly one whose significance extends far beyond the boundaries of New York City and New York State. To be sure, the 8 million Americans who reside within the boundaries of the city will be most directly affected. Even without default, they face significant cutbacks in services, freezes on employee wages, and work force reductions which will undoubtedly have a severe impact on the regional economy. In fact, most of these steps have already been taken.

However, with default, the consequences for the city would be unfathomable.

This issue becomes all the more serious when it is recognized that the State is now involved in the finances of the city. It is likely that the mere existence of default will greatly jeopardize the State's own ability to obtain financing in the capital markets. We must all understand that the State will have to borrow up to $4 billion for its own purposes and functions by June 1976, a feat which would be improbable should the city default and further increase skepticism about any security with the name New York on it.

But the problems extend far beyond the boundaries of the city and the State. Interest rates in the municipal bond market have soared to usurious levels. A few cities have even had to pay above 10 percent interest on a tax exempt security. Ironically, these cities are really just innocent victims of the uncertainty caused by the New York City situation. These cities are not fiscally irresponsible. They are not bad credit risks. They do not have huge operating deficits. They are simply victims of a situation over which they have no control.

We had a panel of 13 mayors testify 2 weeks ago before the Joint Economic Committee in support of Federal aid to New York City. Mayors came from all over the country, from the central cities and the suburbs. They could easily have said, "This is a New York problem and we do not want to get involved." But they realized very early that such a policy would be penny-wise and dollar-foolish. It was not any great affection or benevolence for New York City that precipitated their supportive testimony, but a clear appreciation of the fact that the uncertainty caused by New York's financial crisis was costing all of them millions of dollars——not just this year but many years to come.

There is even a very real threat that a default by New York City could seriously weaken the nationwide economic recovery that is now underway. Yesterday, Chairman Arthur Burns of the Federal Reserve System testified before the Joint Economic Committee and said:

> I recognize that a default, besides being a very serious matter for the City and State of New York could have troublesome consequences for the Nation at large.

It is certainly conceivable that interest rates will rise if the city should default, putting a crimp into many investment plans. Moreover, lending institutions that own a large number of municipal bonds will undoubtedly be very cautious in their extensions of credit.

We have even seen the first examples of international concern about New York City's financial crisis. Last week, Helmut Schmidt, Chancellor of West Germany, warned of an international "domino effect" should New York City be allowed to default. Yesterday, the New York Times contained an article which cited quotations from several international economic experts warning of the international repercussions of a default. To quote just one, Christopher Gruebles, director of the Union Bank of Switzerland:

> We feel that it (default) would seriously affect capital markets and might also affect the dollar.

The legislation that I am introducing today, the Intergovernmental Emergency Assistance Act, provides a simple and reasonable mechanism for averting municipal defaults and bankruptcies and the serious consequences that would ensue.

It is simple so that it can be implemented quickly to meet the immediate crisis. Yet, the requirements that it imposes are sufficiently stringent that only the worst cases will apply and qualify.

The bill establishes an Emergency Intergovernmental Assistance Board composed of five members—the Secretary of the Treasury, the Secretary of Housing and Urban Development, and three members appointed by the President with the advice and consent of Congress. The Board will determine, by majority vote, the eligibility of jurisdictions that apply for assistance.

If the Board approves an applicant, its recommendation is passed on to the Secretary of the Treasury who must then provide assistance through a guarantee of a taxable State or local government general obligation bond.

Any State will be eligible when it fails in a bona fide attempt to obtain private financing. Local governments must (a) apply with the approval of a State; (b) have failed in an attempt to obtain private financing; and (c) be certified by the State that all State remedies have been exhausted and that further State assistance will jeopardize the credit-worthiness of the State. Through these provisions we are assured that all reasonable non-Federal remedies have been exhausted.

The major prerequisite for assistance under my proposal is that each State must submit to the Board, for itself, or for the eligible local government, a 3-year financial plan. The plan shall detail the applicant's projected revenues, expenditures, scheduled borrowings, and other information as the Board shall require. The plan, which the State will be responsible for enforcing, must also contain (a) specific proposals to assure the achievement of a balanced operating budget within 2 years, (b) specific proposals for the retirement of the applicant's noncurrent short-term debt, and (c) specific assurances that the State will allow the eligible local government to raise whatever taxes are necessary to avert default. No expenditures or borrowing will be permitted unless they are included in the plan. Any State which failed to enforce the provisions of the plan would have its entire revenue-sharing payment withheld until compliance is achieved.

It is these strong financial controls which make it unlikely that many governments will participate in the program. No local government will be willing to give up the power of the purse to the State unless its very survival is at stake.

The approach that this legislation takes, conforms very closely to the approach that Chairman Arthur Burns of the Federal Reserve System suggested in testimony before the Joint Economic Committee yesterday. While Chairman Burns did not advocate Federal assistance at this time, he did suggest that any assistance program should include the following elements:

First, strict limitations should be placed on eligibility so that Federal assistance is targeted only on cities and States in financial distress;

Second, the State should supervise the management of the city;

Third, the Federal Government should require a strict financial plan with no expenditures or borrowings permitted that are not included in the plan;

Fourth, a fee should be paid to the Treasury for the right to assistance; and

Fifth, a State tax should be levied to pay one-half of the annual operating deficit of the eligible unit of government.

The bill that I offer today incorporates four of these five elements. First, since an eligible government must issue taxable, rather than tax-exempt securities, it will pay a higher interest rate for its borrowing. This higher interest rate, combined with the relinquishing of the power of the purse, will prevent all but the hardship cases from applying. Second, the State will be responsible for approving and enforcing all of the elements of the plan, thus taking over the management of the city. Third, the approval of a strict financial plan is a clear prerequisite for receiving assistance under my legislation. Fourth, the legislation that I am introducing today imposes a fee of 1 percent for administrative and guarantee expenses.

The bill does not incorporate a special 1-year State tax because I believe a significant tax increase may be too difficult for the State to bear in the current recession. However, I would not rule out this suggestion if it could somehow be made less onerous and the economic impact thus reduced. My bill does take as collateral the State's revenue-sharing payment, which, in my opinion, is a negative sanction of comparable amounts.

The advantages of the bill, however, go well beyond the requirements that Dr. Burns mentions.

First, it is a temporary solution to a short-term problem. The bill is not a substitute for normal revenue collections. It will not affect existing activities in the tax-exempt market. Rather, it will temporarily supplement the tax-exempt market in those few cases where the market cannot meet the financing needs.

Second, the program is very carefully targeted to assist only the most financially strained States and municipalities. It requires that the State or city fail in a bona fide attempt to obtain private financing, thus limiting the program essentially to those States and cities that have lost their line of credit completely. Further, the interest cost of these notes will be above all but the most distressed bids in the tax-exempt market, screening out all States and cities that can obtain reasonable private financing. In addition, as I mentioned earlier, the city would be giving up control of its budget.

Third, the requirement for a strict

financial plan for balancing the city or State's budget and retiring its outstanding short-term notes develops a partnership in which the city, State, and Federal governments are working together to solve the recession-induced fiscal problems. This plan prevents the Federal Government from essentially taking over the management of the city. Development of the plan and control over finances is left to the State. On the other hand, the plan insures that the Federal Government will not be caught holding the bag of bad debts that no one else would reasonably purchase.

Fourth, this legislation incorporates a simple mechanism that can be quickly implemented, thus dealing with immediate crises that require immediate solutions.

Fifth, this legislation will have a very positive impact on issues in the tax-exempt market. It will significantly reduce the supply and demand pressures in the tax-exempt market, thus improving the bids for bonds and notes of all other States and cities. More important, however, it will temporarily remove from the tax-exempt market those bonds and notes which are creating the greatest uncertainties in the market and thus the greatest skepticism about tax-exempt securities.

Finally, the bill will actually make money for the Treasury by closing up the tax expenditure that tax exemption normally provides to the purchasers of these securities. The annual gain to the Treasury could be as much as $400 million. To be honest, there would be an offsetting rise in Treasury borrowing costs since this would expand the supply of Federal Government securities.

I feel compelled to discuss frankly and honestly the total value of the securities that the Federal Government must guarantee. The estimates of the Joint Economic Committee staff indicate that as much as $10 billion worth of city and State securities will have to be guaranteed to avoid a major default. This is no doubt a large sum of money, but there is no half solution to this problem. Anything less than this amount will merely delay default for 6 months, and at that point, the Federal Government will be holding the bag.

However, the Federal Government's actual liability is certainly far less than this amount. If we can judge from the experience of RFC loans to State and local governments in the 1930's, we will probably experience losses of less than 1 percent. More important than this historical precedent, however, is the fact that the city and State revenue bases are simply not going to disappear. In fact, the bill that I have introduced specifically mandates that States allow cities to raise taxes in order to avert default. This provision protects the Federal investment.

In the case of New York, we must take special note of the fact that the city pays approximately $1.6 billion in debt service annually. So, even if the Federal Government did guarantee $7 to $8 billion of city bonds, we could reasonably expect to retire this debt within a 10-year period.

The legislation that I introduce today is a reasonable and fiscally sound proposal to deal with a problem that we simply cannot afford to ignore. There may be other proposals that warrant serious attention—possibly direct loans or insured loans. But, I urge all of my colleagues to give this legislation careful consideration so that we can act before it is too late.

Mr. President, I ask unanimous consent to incorporate at this point in the RECORD the text of the Emergency Intergovernmental Assistance Act of 1975 and an explanation of the major provisions of the bill.

There being no objection, the bill and explanation were ordered to be printed in the RECORD, as follows:

S. 2514

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Intergovernmental Assistance Act of 1975".

DEFINITIONS

SEC. 2. For the purposes of this Act—

(1) "general local government" means a city, town, county, or other general purpose subdivision of a State;

(2) "State" means a State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

(3) "applicant" means any State or general local government which has filed an application for assistance under the provisions of this Act.

ESTABLISHMENT OF BOARD

SEC. 3. (a) There is established in the executive branch of the Government, an Emergency Intergovernmental Assistance Board (hereinafter referred to as the "Board") which shall have succession for a period of 4 years from the date of enactment of this Act. The Board shall be composed of the Secretary of the Treasury, the Secretary of Housing and Urban Development, and three other members who are well qualified by training and experience to execute the duties of the Board, and who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Members of the Board from private life shall serve for a term of 4 years, and any such member appointed to fill a vacancy shall be appointed only for the unexpired portion of the term. Each member of the Board from private life shall each be entitled to receive compensation at the daily equivalent of the annual rate of basic pay for grade GS–18 of the General Schedule for each day (including traveltime) during which he is engaged in the actual performance of his duties as a member of the Board.

(c) While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the government service are allowed expenses under section 5703(b) of title 5, United States Code.

FUNCTIONS

SEC. 4. It shall be the function of the Board to determine the eligibility of and approve applicants for assistance under this Act. Such determination shall be made by a majority vote of the Board after review of information submitted by an applicant in accordance with the standards established by section 5 of this Act. Such determination shall be made by the Board within ten days of the receipt of an application for assistance under this Act. Notification of a determination by the Board of the eligibility of an applicant shall be promptly transmitted to the Secretary of the Treasury.

AUTHORIZATION

SEC. 5. (a) Upon notification pursuant to section 3, the Secretary of the Treasury shall, upon terms and conditions prescribed by the Board, guarantee, or enter into a commitment to guarantee, holders of obligations issued by the applicant against loss of principal or interest payable on such obligations.

(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

STANDARDS AND CONDITIONS

SEC. 6. (a) To be eligible for assistance under this Act, an applicant must demonstrate to the satisfaction of the Board that—

(1) it has made a bona fide attempt to obtain private financial assistance and has failed in such attempt; and

(2) if the applicant is a unit of general local government, it has exhausted all attempts to obtain State assistance which the State can reasonably extend without damaging its own credit posture.

(b) No guarantee shall be made under this section unless the Board finds that—

(1) the obligation guarantee is necessary to the continued operation of the applicant; and

(2) the guaranteed obligation will be secured by the full faith and credit of the applicant which shall be recited and appear on the face thereof.

(c) Any obligation guaranteed by the Secretary shall become due and payable in full at any time not to exceed 10 years from the date of such obligation and shall be conditioned on the payment of a fee, not in excess of 1 per centum, to the Treasury by the recipient of the obligation guarantee in an amount sufficient to create a reserve against losses or defaults and to cover administrative expenses.

(d) Interest on obligations guaranteed under this Act shall not be tax exempt.

(e) If the applicant is a State, it shall furnish to the Board and the Secretary, and if the applicant is a general local government under the jurisdiction of such State, it shall furnish through that State with the endorsement of the Governor thereof, a plan which, subsequent to its initial submission by the applicant, may be amended by a majority vote of the Board, detailing the applicant's projected revenues, expenditures, scheduled borrowings, debt service costs, and such other information as the Board may require for a period of three years after the date of anticipated assistance under this Act. Such plan shall also contain—

(1) specific proposals designed to assure achievement of a balanced operating budget under standard accounting practices within two years of the receipt of assistance under this Act;

(2) a specific program for retirement of the applicant's existing non-current short-term debt; and

(3) such specific assurances as the Board may require that the State will take such legislative action as may be necessary to permit applicants which are units of general local government to utilize such lawful revenue devices as may be necessary to avoid default upon the general obligations issued by such applicants.

No expenditures or borrowings shall be made by any applicant during the period of its assistance under this Act which are not specifically contained in the plan submitted under this subsection.

(f) If any State which is an applicant or endorser under subsection (e) fails to take such measures as may be necessary to insure compliance with a plan filed with the Board under subsection (e), and with such stand-

ard accounting procedures and limitations on expenditures and borrowings, as the State may require, such State shall—

(1) have its entitlement under the State and Local Fiscal Assistance Act of 1972, or other comparable general purpose financial assistance from the Federal Government, as determined by the Secretary withheld until such time as the Board is satisfied and that such State is taking all practicable steps to assure that such obligations and undertakings as are set forth in the plan required by subsection (e) of this section are being met; or

(2) shall be assessed a civil penalty equal to such sums to which the State was entitled under the State and Local Fiscal Assistance Act of 1972 for the fiscal years June 30, 1973, June 30, 1974, and June 30, 1975.

(g) The Secretary shall consult, as necessary, with any State or general local government which has received assistance under this Act concerning any matter which may bear upon the ability of the unit of government to repay the obligation within the time fixed therefor and reasonable protection to the United States.

DESCRIPTION OF BILL

Title: Emergency Intergovernmental Assistance Act of 1975.

General Description: The bill establishes an Emergency Intergovernmental Assistance Board composed of five members—the Secretary of the Treasury, the Secretary of HUD, and three members with outstanding private experience appointed by the President with the advice and consent of the Senate. The Board will determine, by majority vote, whether jurisdictions are eligible for assistance provided under this Act. The Board will have not to exceed ten days from the date of application in which to make this decision. If the Board votes in favor of assistance, this recommendation is then passed on to the Secretary of the Treasury who shall provide assistance by guaranteeing a taxable bond issued by the eligible state or local government. The Secretary has no discretion as to whether to provide assistance once the Board has voted favorably.

Eligible Governments: Any state or general purpose unit of local government will be eligible for this assistance. In the case of a local government, the state will also have to participate in the application (see Other Requirements). In order to be eligible for assistance, the state or local government must have failed in a bonafide attempt to obtain private financing. In addition, in the case of a local government, the state would have to show that it had provided as much assistance to the local government as is feasible without jeopardizing the State's own credit worthiness.

Eligible Securities: Any taxable bond guaranteed by the Federal Government would have to be backed by the full faith and credit of the issuing government.

Maturities of Guarantees: The guarantees could be offered on securities with maturities of up to ten years.

Interest Rate, Fees and Charges: The guaranteed taxable bonds will have their interest rate set by the market, but will also require a service fee of up to one percent.

Other Requirements: Financial Plan. As a prerequisite for the provision of assistance under this Act, each eligible state or local government must submit to the Board and the Secretary of the Treasury a three-year plan detailing the applicant's projected revenues, expenditures, scheduled borrowings, debt service costs and other information that the Board may require. In the case of a local government, the State would be required (through the endorsement of the Governor) to sign onto and participate in the enforcement of the plan. The plan must also contain (a) specific proposals to assure the achievement of a balanced operating budget within two years of receipt of the initial assistance under this Act, (b) a specific program for the retirement of the applicant's non-current short-term debt and (c) specific assurances that the State will permit the applying local government to use any lawful revenue-raising mechanisms that may be necessary to avert default on the guaranteed obligations.

No expenditures or borrowings would be permitted that were not specifically included in the plan.

The Board can approve by majority vote any amendments to the plan.

Any State that failed to enforce a plan that it had endorsed would have its revenue sharing payment (or other general purpose financial assistance) withheld until it was once again in compliance with the requirements of the Act.

By Mr. KENNEDY (for himself, Mr. SCHWEIKER, and Mr. JAVITS):

S. 2515. A bill to amend the Public Health Service Act to establish the President's Commission for the protection of human subjects involved in biomedical and behavioral research, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. KENNEDY. Mr. President, I rise on behalf of myself and Senators JAVITS and SCHWEIKER to introduce the President's Commission for the Protection of Human Subjects of Biomedical and Behavioral Research Act of 1975, which reestablishes the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research as a Presidential Commission, broadens its jurisdiction, and expands the composition of its membership.

Mr. President, this Nation was shocked several years ago by the revelations of unethical research and unethical medical practice carried out in programs sponsored by Department of Health, Education, and Welfare funds. In Tuskegee, Ala., black men were enrolled in a syphilis study and were denied treatment for this dread disease for over 30 years, long after the time that syphilis became an easily treated disease. In Montgomery, Ala., Alice and Minnie Relph, two teenage girls, one of whom was retarded, were sterilized without their parent's knowledge or consent. In Mississippi, experimental psychosurgical techniques were carried out without proper experimental designs and without fully informed consent.

During the Health Subcommittee's investigations of these matters, Dr. Bernard Barber, the distinguished sociologist from Barnard University in New York City, presented the results of his national survey of biomedical research programs which raised profound ethical questions about all kinds of research in all kinds of settings. The committee was shocked to see the extent of the use of approved drugs for unapproved purposes. DES was widely used as a morning-after contraceptive across the Nation, especially on college campuses, without proper informed consent. In fact, it became clear that in the United States, in spite of a strict drug regulatory system, drugs are frequently used for new purposes. Sometimes, these purposes turn out to be legitimate and approval subsequently follows. Oftentimes, these uses are not legitimate, approval never follows, and patients have no recourse except after they are injured. In the State of Tennessee, the experimental drug, depo-provera, was in widespread and common use in the family planning clinics throughout that State as an injectable contraceptive. No informed consent accompanied the use of this experimental drug. Indeed, the drug was used at the Arlington School and Hospital for the Mentally Retarded. Again, there was no informed consent.

The subcommittee also heard of the use of medical devices, which were developed in isolation, without careful scientific scrutiny, and which did grievous harm to many patients.

The common thread of all of these stories was the absence of informed consent, the absence of adequate protection for the patient. In all cases, the doctor or the researcher was able to operate without the checks and balances which have since been accepted as an integral part of the biomedical and behavioral research process.

The Congress responded to these outragious abuses by enacting the National Research Act of 1974, which established the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. Because the hearings had focused on abuses in the Department of Health, Education, and Welfare, and because it was believed that most of the violations occurred in programs under the purview of that agency, and because focusing on that agency alone was in itself a mammoth job, the Commission's jurisdiction was limited to the programs of HEW. As structured, the Commission which has been in existence for 10 months, reviews the policies for the protection of human subjects in HEW. It specifically was charged with focusing on fetal research, psychosurgery, research on children, prisoners, and the mentally retarded, as well as the overall protection system for human subjects. It is charged with making recommendations in all of these areas. The Secretary of HEW, though not bound to follow the recommendations, must, if he chooses to disagree with the Commission, publish the reasons for his disagreement in the Federal Register so that all interested parties, including the Congress, will know and will have an opportunity to take corrective action, if warranted. It also assures that the entire process will be a public and open one.

In establishing this Commission, the Congress clearly stated that the highly emotional issues involved in human experimentation required careful, scholarly study by a group of persons with a wide range of backgrounds. It was hoped that this interdisciplinary approach would focus the best minds in the country on the ethical dilemmas raised by human experimentation. I believe the first report of that Commission, the report to the Secretary on fetal research, illustrates the value and importance of the National Commission.

Mr. President, one of the responsibilities for the National Commission is to recommend to the Congress a mechanism for the expansion of its jurisdiction so as to cover all programs of biomedical and behavioral research which are conducted under Government funds regard-

less of which Federal agency administers those grants or contracts.

I believe, however, that it is no longer necessary or desirable to wait for the Commission to make that recommendation. The revelations of the past months concerning biomedical and behavioral research abuses in the Department of Defense and the CIA underscore the urgent need to expand the National Commission's jurisdiction and to expand it now. The abuses that have been uncovered in the research programs of the Defense Department and the CIA are of a magnitude every bit as frightening, every bit as outrageous and every bit as incompatible with the spirit of biomedical and behavioral research, and warrant immediate action.

The full extent of abuses is still not known. The Defense Department itself is unable to recount to the Health Subcommittee the full extent of biomedical and research activities or the conditions under which they are carried out. We do know that research involving LSD was carried out on human subjects without their knowledge or consent. We do know that research was carried out without proper medical supervision. We do know that treatment for unexpected side effects was delayed because of the inadequate medical care. We do know that at least one death and several suicide attempts resulted from these research efforts. We do know that the LSD research experiments continued up until 1973, long after the initial hearings on human experimentation were being done by the Senate and long after the standards for the conduct of biomedical and behavioral research had altered in this country.

We also learned in these hearings that the unethical research carried out by the Defense Department usually bore a secret label. Although the Defense Department had policies enunciating high principles for the ethical conduct of biomedical and behavioral research, the abuses uncovered at the Senate hearings involved a complete departure from these principles. Experimentation boards designed to review all human subject research were bypassed by the Edgewood Arsenal in Maryland. The director of that arsenal claims never to have been instructed to send his protocols there. He also claims to have obtained informed consent from all of his patients, yet was able to furnish only a standard informed consent sheet—the same sheet was used for every single research project carried out there.

Mr. President, the measure that I am introducing on behalf of myself and Senators JAVITS and SCHWEIKER takes the long-needed step of assuring the people of this country that all research, no matter where it is conducted or by whom, if it is funded with Government money, will come under the purview of the President's Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. The Commission will have its membership expanded to include as nonvoting members, the secretaries of HEW and the Department of Defense, the director of the CIA, and the Administrator of the Veterans' Administration, as well as four Members from the House of Representatives and four Members from the Congress. The majority of Members will still be non-Government employees. Current members of the National Commission will be expected to serve out the remainder of their terms. The purpose for the expansion of the membership is both to upgrade the importance and impact of the work of the Commission, as well as to provide a mechanism whereby top secret research can be reviewed by those members of the Commission who have such clearance.

Mr. President, this Nation has always had a biomedical and behavioral research program second to none. The Commission gives this Nation a policy for the protection of human subjects of research second to none. It makes no sense to limit its jurisdiction. It makes no sense to have the Commission dissolved in 2 years to be replaced by a permanent advisory committee with the same responsibilities. This Nation needs a permanent commission. This Nation needs a permanent commission with the authority to standardize all biomedical and behavioral research conducted under Government funds. This legislation accomplishes this goal.

Mr. President, hearings will be held on this legislation next month. Any interested parties should contact Dr. Larry Horowitz at the Health Subcommittee Office, room 4228, New Senate Office Building, as soon as possible.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2515

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "President's Commission for the Protection of Human Subjects of Biomedical and Behavioral Research Act of 1975".

AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT

SEC. 2. Title IV of the Public Health Service Act is amended by inserting the following new part at the end thereof:

"PART J—PROTECTION OF HUMAN SUBJECTS

"ESTABLISHMENT OF COMMISSION

"SEC. 481. (a) There is established a Commission to be known as the President's Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (hereinafter in this title referred to as the 'Commission'). The Commission shall be composed of—

"(1) four members of the Senate appointed by the President of the Senate; and

"(2) four members of the House of Representatives appointed by the Speaker of the House of Representatives; and

"(3) the Secretary of the Department of Health, Education and Welfare, the Secretary of Defense, the Director of the Central Intelligence Agency, and the Administrator of the Veteran's Administration; and

"(4) eleven members appointed by the President of the United States with the advice and consent of the Senate.

"The President shall select members of the Commission under paragraph (4) from individuals distinguished in the fields of medicine, law, ethics, theology, the biological, physical, behavioral and social sciences, philosophy, humanities, health administration, government, and public affairs; but five (and not more than five) of the members of the Commission shall be individuals who are or who have been engaged in biomedical or behavioral research involving human subjects. Until such time as the President acts to appoint members of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research are deemed members of the Commission as of the date of enactment of this Act.

"(b) The term of office of each member of the Board shall be four years; except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; (2) the terms of office of members first taking office shall begin on the date of appointment and shall expire, as designated at the time of their appointment, four at the end of one year, four at the end of two years, and three at the end of four years; and (3) a member whose term has expired may serve until his successor has qualified.

"(c) The President shall designate one of the members of the Commission as Chairman, and one as Vice Chairman. Seven members of the Commission shall constitute a quorum, but a lesser number may conduct hearings. Those members appointed under paragraphs (1), (2), and (3) of Section 481 (a) shall be non-voting members and shall not be considered in constituting a quorum.

"(d) Members of the Commission who are Members of Congress or full-time officers or employees of the United States shall serve without additional compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Commission. Members of the Commission from private life shall receive $100 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel subsistence and other necessary expenses incurred in the performance of such duties.

"(e) The Commission shall meet at the call of the Chairman or at the call of a majority of the members thereof.

"(f)(1) The Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(2) The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants. Persons so employed shall receive compensation at a rate to be fixed by the Commission, but not in excess of $100 per diem, including travel time. While away from his home or regular place of business in the performance of services for the Commission, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

"(g) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties. Upon request of the Chairman of the Commission, each and every agency or department of the United States shall furnish all information requested by the Commission which is necessary to enable it to carry out its duties. If any information so requested has been deemed to be classified for any purpose (including national security) by such agency or department, such information shall be furnished to the Special Classified Information Committee of the Commission (here-

inafter in this section referred to as the 'Special Committee'), which shall be composed of those members of the Commission who are appointed under paragraphs (1), (2), and (3) of section 481(a). Eight members of the Special Committee shall constitute a quorum, but a lesser number may conduct hearings. By a majority decision of the Special Committee, such information shall be disclosed without regard to the sensitivity of such information to the full Commission upon a finding by the Special Committee that there is or will be an adverse impact upon the protection of human subjects of research.

"COMMISSION DUTIES

"SEC. 482. (a) The Commission shall carry out the following:

"(1)(A) The Commission shall (i) conduct a comprehensive investigation and study to identify the basic ethical principles which should underlie the conduct of biomedical and behavioral research involving human subjects, (ii) develop guidelines which should be followed in such research to assure that it is conducted in accordance with such principles, and (iii) make recommendations to the appropriate agency or department for such administrative action as may be appropriate to apply such guidelines to biomedical and behavioral research conducted or supported under programs administered by the appropriate agency or department, and concerning any other matter pertaining to the protection of human subjects of biomedical and behavioral research.

"(B) In carrying out subparagraph (A), the Commission shall consider at least the following:

"(i) The boundaries between biomedical or behavioral research involving human subjects and the accepted and routine practice of medicine.

"(ii) The role of assessment of risk-benefit criteria in the determination of the appropriateness of research involving human subjects.

"(iii) Appropriate guidelines for the selection of human subjects for participation in biomedical and behavioral research.

"(iv) The nature and definition of informed consent in various research settings.

"(v) Mechanisms for evaluating and monitoring the performance of Institutional Review Boards established in accordance with section 474 of this Act and appropriate enforcement mechanisms for carrying out their decisions.

"(C) The Commission shall consider the appropriateness of applying the principles and guidelines identified and developed under subparagraph (A) to the delivery of health services to patients under programs conducted or supported by the Secretary of HEW and shall review and suggest the ethical, social and legal implications of all biomedical and behavioral research on human subjects conducted by and through any Federal agency (including contractors) for which any Federal funds are to be appropriated.

"(2) The Commission shall identify the requirements for informed consent to participation in biomedical and behavioral research by children, prisoners, military personnel, and the institutionalized mentally infirm. The Commission shall investigate and study biomedical and behavioral research conducted or supported under programs administered by the Secretary and involving children, prisoners, military personnel, and the institutionalized mentally infirm to determine the nature of the consent obtained from such persons or their legal representatives before such persons were involved in such research; the adequacy of the information given them respecting the nature and purpose of the research, procedures to be used, risks and discomforts, anticipated benefits from the research, and other matters necessary for informed consent; and the competence and the freedom of the persons to make a choice for or against involvement in such research. On the basis of such investigation and study, the Commission shall make such recommendations to any department or agency of the United States as it determines appropriate to assure that biomedical and behavioral research conducted by or supported under the appropriate department or agency of the United States meets the requirements respecting informed consent identified by the Commission. For purposes of this paragraph, the term 'children' means individuals who have not attained the legal age of consent to participate in research as determined under the applicable law of the jurisdiction in which the research is to be conducted; the term 'prisoner' means individuals involuntarily confined in correctional institutions or facilities (as defined in section 601 of the Omnibus Crime Control and Safe Streets Act of 1968 (43 U.S.C. 3781)); and the term 'institutionalized mentally infirm' includes individuals who are mentally ill, mentally retarded, emotionally disturbed, psychotic, or senile, or who have other impairments of a similar nature and who reside as patients in an institution; the term 'military personnel' means individuals who are active and inactive members of the U.S. Armed Forces, veterans of the U.S. Armed Forces, and employees and agents of the Central Intelligence Agency.

"(3) The Commission shall conduct an investigation and study of the use of psychosurgery in the United States during the five-year period ending December 31, 1972. The Commission shall determine the appropriateness of its use, evaluate the need for it, and recommend to the Secretary policies defining the circumstances (if any) under which its use may be appropriate. For purposes of this paragraph, the term "psychosurgery" means brain surgery on (1) normal brain tissue of an individual who does not suffer from any physical disease for the purpose of changing or controlling the behavior or emotions of such individual, or (2) diseased brain tissue of an individual, if the sole object of the performance of such surgery is to control change, or affect any behavioral or emotional disturbance of such individual. Such term does not include brain surgery designed to cure or ameliorate the effects of epilepsy and electric shock treatments.

"SPECIAL STUDY

"SEC. 483. The Commission shall undertake a comprehensive study of the ethical, social, and legal implications of advances in biomedical and behavioral research and technology. Such study shall include—

"(1) an analysis and evaluation of scientific and technological advances in past, present, and projected biomedical and behavioral research and services;

"(2) an analysis and evaluation of the implications of such advances, both for individuals and for society;

"(3) an analysis and evaluation of laws and moral and ethical principles governing the use of technology in medical practice;

"(4) an analysis and evaluation of public understanding of and attitudes toward such implications and laws and principles; and

"(5) an analysis and evaluation of implications for public policy of such findings as are made by the Commission with respect to advances in biomedical and behavioral research and technology and public attitudes toward such advances.

"ADMINISTRATIVE PROVISIONS

"SEC. 484. (a) The Commission may for the purpose of carrying out its duties hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems advisable.

"(b) Within sixty days of the receipt of any recommendation made by the Commission under section 482, the appropriate department or agency of the United States shall publish it in the Federal Register and provide opportunity for interested persons to submit written data, views, and arguments with respect to such recommendation. The appropriate department or agency of the United States shall (1) determine whether the administrative action proposed by such recommendation is appropriate to assure the protection of human subjects of biomedical and behavioral research conducted or supported under programs administered by it, and (2) if it determines that such action is not so appropriate, publish in the Federal Register such determination together with an adequate statement of the reasons for its determination. If the appropriate department or agency of the United States determines that administrative action recommended by the Commission should be undertaken by it, it shall undertake such action as expeditiously as is feasible.

"AUTHORITY TO CONTRACT

"SEC. 485. The Commission may contract for the study and design of mechanisms to be included in such recommendations.

"TRANSFER OF FUNCTIONS

"SEC. 486. The functions, powers, and duties of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (88 Stat. 348–351) shall be transferred to the Commission.".

MISCELLANEOUS

SEC. 3. (a) Part A of title II of the National Research Act (42 U.S.C. 2891) is repealed.

(b) Sections 211 and 213 of the National Research Act are repealed.

Mr. SCHWEIKER. Mr. President, the accounts of unsupervised experiments on humans in military and CIA drug research—revealed during recent hearings before the Subcommittee on Health, of which I am ranking minority member—are indicative of the need for the bill Senators KENNEDY, JAVITS, and I have introduced today.

During the hearings we learned of secret experiments with LSD and other hallucinogenic drugs conducted on military personnel with virtually no medical supervision or followup, and little adherence to established ethical principles.

In order to provide a responsible body to review the issues presented to the committee, this bill creates the President's Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, and transfers the functions, powers, and duties of the National Committee for the Protection of Human Subjects of Biomedical and Behavioral Research to the new Commission. The Commission shall be composed of the Secretary of Health, Education and Welfare; the Secretary of Defense; the Director of the Central Intelligence Agency; the Director of the Veterans' Administration; 8 Members of Congress, equally divided between the House and Senate, appointed by the Speaker of the House and the President of the Senate, respectively; and 11 members from the public appointed by the President with the advice and consent of the Senate. The Commission shall be responsible for the review of all federally funded biomedical and behavioral research programs.

The bill recognizes that it may be necessary for reasons of national security to authorize special consideration for research involving military personnel.

Thus, it authorizes specified members to serve as a special committee within the Commission which would obtain Commission-requested data on federally funded biomedical and behavioral research programs, alleged to be classified, that is necessary for the commission to carry out its duties under the act. This special committee would determine—by majority vote—whether such information should be made available to the full Commission. Information shall be disclosed to the full Commission if a majority of the special committee finds there is or will be an adverse impact upon the protection of human subjects of research.

Mr. President, my work on the Select Committee on Intelligence Activities, together with my experience on the Health Subcommittee, convinces me this bill is a necessary step to guarantee the safety of all Americans.

Mr. JAVITS. Mr. President, the recent accounts of human participation in military and CIA drug research experiments—cited in hearings before the Subcommittee on Health of the Committee on Labor and Public Welfare, of which I am ranking minority member—demonstrate the need for the bill Senators KENNEDY, SCHWEIKER, and I join in introducing today.

It is alleged that much of the military personnel research and experimentation is done under the auspices of HEW research guidelines. Yet the evidence presented to the committee raises serious questions about how, if at all, such guidelines are implemented.

I believe Congress has a responsibility to assure meaningful legal controls of all federally supported research activities involving human subjects.

The bill we introduce today builds upon the foundation created in Public Law 93-348—which is based on legislation Senator KENNEDY and I authored. It established a Commission to conduct a comprehensive investigation and study to identify the basic ethical principles which should underlie the conduct of biomedical and behavioral research involving human subjects. The Commission was also required to develop guidelines which should be followed in such research to assure that it is conducted in accordance with ethical principles. However, the law is limited to HEW-funded research activities.

To achieve responsible control of all federally supported research activity involving human subjects, this bill would:

1. Transfer the present established in law, time limited HEW National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research into a Presidential Commission.

2. Broaden Commission membership to include along with HEW Secretary, the following: DOD Secretary; CIA Director; VA Administrator; and eight Members of Congress, equally divided between House and Senate.

3. Authorize qualified public members to be appointed by the President with Senate advice and consent, for varying terms; however, until such time as the President makes such appointment recommendations for Senate advice and consent, the existing public members continue to serve on Commission.

4. Broaden scope of Commission activities re experimentation issues to include all federally funded biomedical and behavioral research programs.

5. Authorize nonappointed members—as provided in "2" above—to serve as a select committee within the Commission. It would obtain Commission requested data respecting federally funded biomedical and behavioral research programs, which is alleged to be classified, and necessary for the Commission to carry out its duties under the act. Then the Select Committee would determine—by majority vote—whether such information should be made available to the Commission. The standard they would apply is whether the failure to provide such information could have an adverse impact upon the protection of human subjects at risk in research without regard to the alleged sensitive nature of the classified information.

6. Transfer all present Commission authority to the newly established Commission and modify, as appropriate, to whom Commission recommendations respecting research apply.

Although medical experimentation on human beings is as old as recorded history—the ancient Persians experimented on condemned criminals—the increase in human subject research, coupled with the desire to apply new knowledge quickly, make it prudent for the Congress to act now to provide additional statutory protection for the rights of individuals who participate in research.

It may be necessary for reasons of national security to authorize special consideration for research involving military personnel—and this bill provides for that contingency. However, civilized society cannot tolerate callous disregard of human rights for any purpose—and the bill achieves that goal.

By Mr. DOLE (for himself, Mr. MCCLURE, Mr. FORD, Mr. FANNIN, Mr. HANSEN, Mr. HARTKE, Mr. BURDICK, Mr. LAXALT, Mr. HUMPHREY, Mr. STEVENS, Mr. LEAHY, Mr. MCINTYRE, and Mr. PERCY):

S. 2516. A bill to provide for further assistance to Senate committees in conducting evaluations of the efficiency and economy of Federal Government programs and their operation. Referred to the Committee on Government Operations.

Mr. DOLE. Mr. President, I introduce today, together with 11 of my colleagues, a bill which represents a modification of Senate Resolution 152, legislation I introduced May 13 of this year.

The purpose of this legislation is to reduce the bureaucratic maze associated with Federal programs and halt or restructure existing inefficient, duplicative programs which are not giving the taxpayers a fair return on their tax dollar.

OVERSIGHT METHODOLOGY AND REPORT FORMAT

The legislation I introduce today calls on the Government Accounting Office, the Congressional Budget Office, and the Senate Government Operations Committee to develop no later than June 1, 1976, a standard oversight methodology to be utilized by each standing committee other than the Committees on Appropriations and Budget, in reviewing the effectiveness of the programs it has authorized. The bill also calls for the development of a standard report form to be utilized in reporting the results of their hearings and investigations. The report will include but not be limited to a comparison of the estimated program costs and benefits, a summary and description of the efficiency of administering the programs, a summary of other Federal or State initiatives which are attempting to accomplish the same objectives, and an assessment of the effectiveness of the program in providing the identified program benefits and the priority of the various program benefits.

The usefulness of such an oversight process is obvious. We currently have thousands of programs on the books which are attempting in their own fragmented way, to accomplish nationally recognized objectives. Yet we have no way of knowing which of the myriad of programs is most effective or efficient. This legislation would provide a basis for each authorizing committee to critically analyze its own programs with the assurance that every other standing committee would be doing the same. By identifying the ineffective programs, as well as the duplication which exists because several standing committees have, without consultation, legislated programs to meet a single unidentified national concept, we would take the first big step toward reducing the bureaucratic maze which surrounds Federal programs and develop an objective legislative process which assures taxpayers that their tax dollars are being wisely spent.

FURTHER DEFINITION NEEDED

The necessity of this legislation becomes apparent when we evaluate the past record of the congressional oversight process. Section 190 D. of title 2 of the United States Code requires that every odd-numbered year each standing committee report to the Senate on its legislative review activities. We have had an oversight requirement for over 5 years. But oversight has been defined so loosely that 2 hours of hearings and a five-page report has been considered adequate oversight of programs that annually spend billions of dollars.

I am convinced we need more than that. I am convinced that the taxpayer expects and, rightfully, is beginning to demand that the Federal Government be just as thrifty with his tax dollars as taxpayers are with the take-home portion of their paychecks. And I believe that it is Congress that must begin this movement toward responsible spending. We all criticize the bureaucracy for spending abuse, but in doing so, we must remember that we as legislators mandate the major portion of the actions taken by the bureaucracy. We are in the best position to resolve these problems and stop the waste, and it is incumbent on us to uphold this responsibility.

NEED HARD DATA ON PROGRAMS

Although oversight involves a delicate and complicated process, to effectively legislate, Congress must have before it

some objective measures of the benefits, costs, and overall effectiveness of various programs. These measures must be as straightforward as possible and must be available in a format that is concise and that facilitates comparison among programs.

I realize that evaluations meeting the requirements I have described will be difficult to produce. It is very difficult to quantify all the costs, and even more difficult to quantify all benefits associated with a program. But we can clearly go many miles further in that direction than the current oversight practices, such as they are. We can at the very least have the significant benefits claimed for a program and all the costs resulting from it identified. It may well be that once identified, most of these will be quantifiable within certain bounds of reliability and accuracy. We can at least require that the purpose of the program be clearly identified and that some criteria be stated for judging whether, or to what extent, that purpose is being served.

Cost-benefit analysis is a very general and broadly defined evaluation methodology. Evaluations of different programs will entail use of different combinations of techniques. A truly complete analysis is perhaps impossible in many cases. But we can at least expect more than a couple of useful, but very narrow reports, on administrative efficiency, case load, and the like.

It is my understanding that the GAO has already made good progress in developing and applying evaluation techniques of the type called for by methodology described in this bill. This has been done partly as a result of provisions of the Budget Act of 1974. It is also my understanding that the staff of the Committee on Government Operations has devoted a good deal of effort to considering the methods of oversight and program evaluation, and how they might be improved. These efforts are admirable. But it seems to me that, given the complexity of the problem and the difficulty of arriving at definitive conclusions, these efforts could go on indefinitely. It is my feeling that these efforts should be intensified and focused, and the results should be brought to bear as soon and as extensively as possible, in assisting Congress to meet its responsibility to practice truly effective oversight.

I think the June 1, 1976, deadline for pulling these results together is realistic. Let us intensify our efforts and then take what we have at that time and go with it. The GAO can, of course, continue after that to develop and improve evaluation techniques and cost-benefit estimation methods.

I also think that March of 1977 is a realistic deadline for committees to come forth with their first program evaluations consistent with the evaluation methodology prescribed. Indeed, this is none too soon for Congress to begin to take a well-informed look at what it has wrought over the years.

The evaluation of all Government programs is an enormous task. It will be difficult to accomplish within the 2-year period specified. The committee staffs cannot be expected to do this single-handedly. But it is clear that if Congress is to do a better job of oversight, it must increase the evaluation expertise of its committee staffs and much of the responsibility and effort will fall there. But much of the evaluative work can be done by Government agencies themselves if their efforts are channeled by the standard methodology developed pursuant to this act and guided by committee staff. Also, the 1974 Budget Act (title VII) authorizes committees to call on GAO for technical assistance in accomplishing program evaluations. Thus, given a concerted effort and cooperation on the part of Senate committees, GAO, and Government agencies, the time frame for evaluating Government programs is reasonable. We cannot delay any longer in taking a close look at the myriad of Government programs.

I would expect the objectives served by the legislation I introduce today to meet with broad approval. But I would also expect the thought of implementing its provisions to cause most Members to pause. There may be some reluctance to accept such a mandate. This legislation will impose some rather well-defined and tough requirements on the committees of this body.

But this is as it must be. Oversight properly exercised is a difficult and serious responsibility, requiring reconsideration, and leading ultimately to difficult decisions.

SAVINGS TO BE UTILIZED

One need not look far to discover the bounty in tax saving that can be obtained by the effective utilization of congressional oversight. How long has it been since Congress really took a hard look to see if the programs it authorizes are effective? Do the expenditures we authorize really bring about the benefits they are intended to produce? For example, is $39.4 million spent annually on 1,307 Federal advisory boards, councils, committees a productive expenditure? Are the Federal programs Congress has authorized being operated efficiently? I have recently had cause to investigate the travel policy within the various Federal agencies. Current budget figures project travel expenditures for Federal employees amounting to $2.25 billion in the coming year. Although my study is still in a very preliminary stage, it appears there are few policy guidelines directed at reducing travel and cutting Federal travel expenditures.

PROGRAM DUPLICATION

Probably the largest area where abuse can be found and saving accrued is in the area of program duplication. This is also a problem area for which Congress must assume a major portion of the blame. The 1974 edition of the catalog of Federal domestic assistance lists 975 separate Federal programs, approximately 80 percent of which were enacted since 1960. Unfortunately, many of these programs are directed at the same goal or purpose. For example, a GAO report released August 19, 1975, entitled "Fundamental Changes Are Needed in Federal Assistance to State and Local Governments," listed 186 programs scattered within 20 Federal agencies which can provide funds entirely or in part for community developments. Such duplication means high overhead waste. Could not more be accomplished with less dollars if the programs were combined or better coordinated and overhead reduced?

The same GAO study reports the existence of 228 Federal programs in nine Federal agencies which seek to improve health care in America. Is there duplication in these program efforts? Could we streamline the programs and get more assistance to the persons in need without spending more tax dollars?

The welfare and welfare related programs are also ripe for scrutiny. A 1972 study of public welfare by the Subcommittee on Fiscal Policy of the Joint Economic Committee in analyzing the 26 major federally funded income transfer programs which pay out well over $100 billion a year in benefits concluded that "better coordination of legislative and administrative changes in these programs seems essential. Such coordination might require different working arrangements than now exist among Federal agencies as well as congressional committees, and could require that various units of Government share their technical expertise and reach an agreement on basic policy goals in order to move toward a more effective public welfare system." Congressional oversight is the place to begin this coordinating process, a process that will lead not only to cost reductions, but also improved program delivery.

These are but a few of the problems we must address. The need is obvious.

SAFEGUARDS

I would conclude by pointing out that this bill says nothing about spending priorities, programs, or procedures. It is not intended to trample on any committee's jurisdiction. It is intended to reduce spending and increase program efficiency, but calls for each standing committee to undertake this effort within its own jurisdiction.

I would also point out that a stopgap measure has been added to the bill to assure full congressional input into the development of the oversight methodology and reporting format. As drafted, the GAO, CBO, and the Government Operations Committees would finalize the methodology and format by June 1, 1976, and mandate the completion of the first oversight reports by March 15, 1977, unless prior to July 1, 1976, either House of Congress disapproves the methodology and reporting proposal.

The President has just proposed tax and Government spending cuts of $27 billion. The aim of reducing Government spending is admirable, and we are in agreement with this objective. But it will be difficult to determine which programs are to bear the cuts. Spending reductions should not be distributed indiscriminately. Those programs which are least effective and least productive of benefits to society should be identified and reduced or eliminated. The legislation provides an effective framework within which these difficult determinations can be made.

I feel this legislation can set a new

direction for Federal legislation and urge my colleagues to join in support of the bill.

By Mr. MUSKIE (for himself and Mr. HATHAWAY):

S. 2518. A bill to amend the Internal Revenue Code of 1954 to treat the noncash remuneration paid to certain workers on fishing boats as self-employment income for purposes of the Federal Insurance Contributions Act, and for purposes of Federal income tax withholding requirements. Referred to the Committee on Finance.

AN ACT TO EXCLUDE STERNMEN WITHHOLDING TAX REQUIREMENTS

Mr. MUSKIE. Mr. President, I introduce, for myself and Senator HATHAWAY, legislation designed to permit the continuation of a traditional working arrangement in the lobster fishing industry which is threatened by recent IRS rulings.

Maine lobstermen informally cooperate from time to time with each other or a helper to overcome hardships resulting from bad weather or other unusual work demands. For example, a lobster boat captain might ask a colleague or clam digger to join him in his rounds and assist him in handling traps during inclement weather. These helpers are called sternmen because their duties—handling traps and gear—are performed in the rear of the boat. According to the traditional, informal agreements, the sternmen receive a share of the lobster catch for the day in return for their assistance.

The boatowner makes no guarantee as to how much the sternman will earn. In the case of an unsuccessful trip, the sternman might not receive anything.

There is generally little formality or continuity to these arrangements. There are no written contracts and the sternman usually works with a boatowner for only brief periods. He may own his own boat and join another captain while his own vessel is under repair or he may be a clam digger working on fishing boats while flats are closed or inaccessible.

Until recent IRS rulings altered the practice, both the boat owner and the sternman considered themselves as self-employed and reported their income from the fishing venture on their own return with no withholding required. These arrangements were convenient and logical since each was otherwise filing a return as a self-employed person and because of the occasional nature of the sternman's work. Maine fishermen have always filed returns in this manner and it was accepted by the Internal Revenue Service until they began to apply Revenue Ruling 385 to demand that taxes be withheld.

I believe the IRS erred in deciding to extend withholding provisions to the sternman. Neither the court decisions nor the revenue rulings related to this matter directly cover the status of a boatowner who uses a single sternman. The determination to apply withholding provisions to these individuals is apparently part of a recent broad effort to enforce payroll withholding requirements. I have requested IRS officials to limit their application but have not succeeded in persuading them that sternmen are an inappropriate target for this crackdown. The IRS has persisted in applying Revenue Ruling 72–385 to treat sternmen as employees whose taxes must be withheld.

The change has been dramatic for Maine fishermen with the application of this revenue ruling and the beginning of a massive IRS audit of lobstermen under the "Lobster Project." In some cases, boatowners were required to pay withholding taxes retroactively despite payment of taxes on the same wages as self-employment income by the sternmen. The apparent inequities involved have offended all those familiar with the audits and have discouraged cooperation between lobstermen and IRS.

The frustration and expense related to keeping records and withholding taxes for sternmen have discouraged these cooperative arrangements and threaten to adversely affect lobstering efforts in areas of rough seas or during bad weather. I find the economic consequence for the individuals and communities involved an unacceptable cost for the minimal convenience afforded the IRS under this ruling, and am introducing this legislation to correct the situation by requiring that sternmen be treated as self-employed under the Federal Insurance Contribution Act and withholding provisions of the Federal income tax. A recent article by Peter B. Sang, Esq., on the "Tax Status of Sternmen on Fishing Boats," published in the Maine Bar Bulletin, July 1975, supports this action. To quote from Mr. Sang's conclusion:

> The real answer is Congressional relief in the form of an amendment to the law.

The legislation amends the Internal Revenue Code by specifically excluding the services performed by sternmen from the definition of employment under the Federal Insurance Contribution Act, by excluding wages paid for sternmen's services from the definition of wages under the withholding provisions of the Federal income tax, and by excluding sternman services from the Social Security Act definition of employment and including those services in the definition of self-employment income.

The amendments will allow sternmen to continue to enjoy the benefits of the Social Security Act as participating self-employed individuals and sternmen will continue to be eligible to recover under the Jones Act for personal injury suffered while working.

I ask unanimous consent that the article by Mr. Sang and the text of this legislation be printed in the RECORD.

There being no objection, the article and bill were ordered to be printed in the RECORD, as follows:

TAX STATUS OF STERNMEN ON FISHING BOATS
(By Peter B. Sang, Esq.)

In the past few years, thousands of Maine fishermen have become aware of what has been for over three decades a relatively obscure issue in the tax law. The issue concerns the tax status of fishing partners (generally called "sternmen") of boat owners and whether the boat owner is considered to be the "employer" of the sternman so that Social Security and income taxes must be withheld and federal and state unemployment taxes paid.

The frustrations of Maine fishermen became apparent when the foregoing issue became part of the well-publicized "Lobster Operation" involving the audits of dozens of tax returns of lobster fishermen during the period 1971–1974. Yet the sternman problem affects any taxpayer operating a boat with the assistance of one or more crew members. The problem is also national in scope as evidenced by two television programs shown earlier this year featuring the activities of the Internal Revenue Service. One program dealt with this issue as it affected a Gulf Coast shrimper in Louisiana and the other program focused upon the problems of Chesapeake Bay oyster fishermen.

The purpose of this article is to focus on why the Service has decided that the boat owner-operator is the employer of the sternmen for tax purposes; whether there can be a legal partnership between the parties; and the developments in the case law and administrative positions within the Service that have brought about much monumental confusion.

NATURE OF PROBLEM AND OPERATION OF FISHING VENTURE

The question of whether a fisherman performing services on a boat is to be considered an "employee" of the boat owner[1] is really an old problem. Back in 1940, the Service published a ruling to the effect that fishermen performing services on fishing schooners owned by a company are employers of the company or the captains and that the renumeration paid, including the value of meals and lodging, to the fishermen were "wages" for purposes of payroll withholding[2]. It must be remembered that in 1940 the maximum amount payable annually under Social Security was in the neighborhood of $40. For whatever reasons, the Service administratively seems not to have tried to enforce the position set forth in 1940 to any great degree for the next twenty-odd years.

It may be helpful, at this point, to set forth some information about the typical working relationship of a boat owner and his sternmen. Virtually all of the fact patterns involve the "60–40 lay" basis of dividing profits in accordance with the long-standing custom in the fishing industry. Under that system, a settlement is made between the owner and the sternman after each trip. From the total proceeds received from the sale of the catch brought in, there are first deducted certain expenses relating to the boat[3] and the balance, known as "gross stock," is then divided into two shares, 60% to the crew and 40% to the owner. From the crews' share are deducted the operating expenses of the trip, which include the cost of groceries, fuel, lubricants, ice, the cook's bonus (if a cook is on board), the tallyman's fee, the "lumpers" wages (fish unloaders) and in some cases, the fee of a shore captain.

In the cases where the boat owner is also a fisherman, he shares in the 60% (after deduction of the aforementioned operating expenses) as an "equal partner." Variations of the 60–40 lay are common to fit particular cases, but the basic idea is the same. Variations do exist in connection with the actual mechanics of selling the catch. Generally the boat owner handles the sale and the sternman receives his share in cash. At times, the sternman receives his share in kind.[4]

The boat owner makes no guaranty as to how much the sternman will earn. The boat owner in the case of an unsuccessful trip would not have to pay the sternman anything.[5]

The boat owner equips and maintains the boat and furnishes the gear used in the fishing operation. The sternman provides his own clothing, bedding and personal equipment, such as boots and oilskins. There are no written contracts with the sternman and

---

Footnotes at end of article.

generally the sternman works with the boat owner for a short duration. It is quite common for the sternman himself to own a boat. If his boat is in for repairs or is not being operated, he joins another boat owner in a fishing venture.[6]

Generally, there is no discussion between the boat owner and the sternman as to how the latter is to perform his job. The boat owner might discuss where to go to fish, but since both have a stake in the success of the venture, there is usually a mutual understanding on these matters or a rather quick termination of the venture.

While in port, the sternman does as he sees fit. The boat owner would take care of any repair work. The sternman would participate generally in some work aboard the boat such as removal of nets, minor repairs to the nets and rigging and some cleaning.

The boat owner carries and pays for all insurance, including protection and indemnity insurance, necessary for the protection of his boat and those aboard. This insurance protects the boat owner against suits by anyone injured while on his boat.

DISCUSSION OF CASE LAW

In order for withholding of employment taxes to be required, there must be a payment of "wages" by an "employer" to an "employee."[7] It is clear that no single factor is controlling in determining the existence of an employer-employee relationship.[8]

Prior to 1969, the apparent standard to be applied in making the foregoing determination was that of common law. In 1969, the Supreme Court in *United States v. Webb, Inc.*, 397 U.S. 179 (1969) ruled that the standards of maritime law had to be used and that the common-law applicable to land-based activities could not be applied.[9]

As was stated by the Supreme Court in *Webb*, on page 192:

"Control is probably the most important factor under maritime law, just as it is under the test of land-based employment. It may be true that, in most maritime relationships, the workers enjoy discretion that is unusually broad if measured by landbased standards—a discretion dictated by the seafaring nature of the activity. However, *except where there is nearly total relinquishment of control* through a bareboat, or demise charter, the owner may nevertheless be considered under maritime law, to have sufficient control to be charged with the duties of an employer . . . (emphasis added)

In one of the first cases following *Webb*, the Government argued in *Anderson Seafood Co.*[10] that in the absence of a demise charter, the crew members were employees. The District Court in *Anderson Seafood* found distinctions in the amount of control exercised by the boat owner and found that the right to control went to the result to be accomplished but not the details and means by which the result is accomplished. The Court specifically found the cases involving the Jones Act not to be controlling as to whether the boat owner was the employer.

On appeal[11] the Fifth Circuit decided that the District Court in fact applied common law and not maritime law principles in determining whether the captains and crewmen were employees of the shipowner. Since there was no demise charter,[12] the Court found the crew members to be employees, reversing the District Court.

ISSUANCE OF REVENUE RULING 72–385 AND RECENT DEVELOPMENTS

Following the Government's success in October 1971 in *Anderson Seafood*, Revenue Ruling 72–385, IRB 1972–32, 37 was issued wherein the Service updated S.S.T. 387. Setting forth the facts of Anderson Seafood involving a non-fishing boat owner, a captain and a crew, the Service indicated that the crew members and the captain were "employees" for payroll tax withholding purposes.

It is obvious that the Service and the courts consider the nonfishing boat owner with multiple member crews and a captain as being employers for tax purposes. Not so clear from any cases or the above cited ruling was the status of the boat owner who fished along with a single sternman.

Apparently right up until the issuance of Rev. Rul. 72–385, the Service, through its various offices, indicated orally to taxpayers that if each fisherman (i.e. the boat owner and the sternman) considered himself as self-employed and if each reported his income on a Schedule C, then no withholding was required. Apparently, following this advice, virtually no fisherman with single sternmen withheld on payments.

The result over the last few years has been that certain fishermen have been audited for various reasons. As part of the audit, the question of the status of the sternman has been raised. In some cases, the agents have treated the sternmen as employees for all open back years and assessed deficiencies for the amount of FICA taxes not withheld (employer and employee portions), income taxes not withheld[13] and FUTA taxes. In other cases, the Service has apparently permitted taxpayers to comply with Rev. Rul. 72–385 on a prospective basis. There seems to be no uniform cut-off date and no way any taxpayer can know how the tax law will be applied to him, if in fact it is. It is the author's impression that there has not been voluntary compliance with the Service's position and in many cases, because of the economics involved and trouble with filing payroll returns, the boat owner has simply terminated his relationship with the sternman.

In a recent case, before the Appellate Division, the question was raised as to the status of several sternmen of a shrimpboat operator (each having been the sole sternman for a short period of time). Each sternman in question had his own boat and each had filed a Schedule C. The boat owner had been audited in 1973 and he had been assessed all payroll taxes for the years 1970–1973 inclusive. (Because of the nature of the case, no penalties had been proposed). The boat owner had received oral advice from the Portsmouth office of IRS in 1970 that no withholding was required if the sternman reported his share of the profits on his own return. The arrangement with each sternman was the typical 60-40 lay split of profits.

At Appellate, the taxpayer/boat owner was successful in establishing that all of the sternmen but one had included the amounts paid by the boat owner in incomes and under Regulations § 31.3402(d)-1 the boat owner was held not liable for failure to withhold income taxes.[14]

The issue of withholding FICA taxes was finally settled "on a hazards of litigation basis"[15] mostly because of the fact that the sternmen each owned their own boats and were independently in the fishing business. The Conferee strongly contended that under maritime law (principally the Jones Act) the boat owner was an "employer" and hence was an employer for tax purposes. The taxpayer/boat owner had to settle for the amount offered as it was not felt that success in litigation was at all assured. After the settlement, refund claims were filed for those years still open in which the sternmen had paid self-employment taxes. Needless to say, the technical procedures involved became quite complicated.

REMAINING QUESTIONS

The Service appears to take the position that a partnership between a boat owner and a sternman can exist if there is roughly equal liability for debts; if there is a written partnership agreement and the two men hold themselves out as partners.

The capital investment by the sternman would have to be a substantial amount of the fishing gear involved. (Theoretically, one partner could put up the boat as capital, with the sternman investing solely in the actual fishing gear). A partnership return would then have to be filed instead of a Schedule C for each man. The idea of a formal partnership arrangement does not appeal to the majority of small boat-owners.

There appears to be no clear answer to the situation where a fisherman joins another for a very short period of time while his own boat is being repaired.[16] As a practical matter, it appears likely that the Service may administratively choose to ignore certain relationships which technically fall under the rationale of *Webb* and *Anderson* because of the tax dollars involved and the difficulty of enforcing what appears to be an inequitable result.

The real answer is Congressional relief in the form of an amendment to the law which would exclude most of the two-man boat operations from the rules pertaining to employers. The recent trend has been to extend along a broad front enforcement of payroll withholding requirements. This has been the result of the increases in the Social Security withholding rate and the wage base. With future increases scheduled, it is doutbful that the small taxpayers can marshal a united front to have the law changed or even to litigate a test case where the application of the law is in doubt.

The prospects for the many Maine taxpayers affected by this problem are not bright. It would seem that in the process of "clarifying" the tax law, a certain amount of inequity has been created which has to be borne by people not able to afford it for the present time. Each case does stand on its own facts. Hence, it is essential for tax practitioners to be familiar with the variations in the operation of this aspect of the tax law and if possible attempt to create either a partnership between the boat owner and the sternman or a joint venture that will stand up under the tests of Rev. Rul. 72–365.[17]

FOOTNOTES

[1] The technical analysis in this area is complicated by the fact that the factual patterns involved can vary from the very simplest situation of a single boat owner with one fishing partner where both men actually fish, to situations where the boat owner hires a captain (or captains in the case of a fishing fleet) who in turn hire crewmen. In the latter case, the boat owner performs no actual fishing. For purposes herein, all factual patterns will be covered under the analysis with appropriate notation where any differences in operation do or could affect the tax result. For purposes herein the term "fishing partner", "crew member" and "sternman" are used interchangeably.

[2] S.S.T. 387, 1940–1 CB 192.

[3] e.g. any expenses relating to radar or fathometer rental, certain supplies, any bonus paid to any nonfishing crewmen such as an engineer, etc.

[4] This would generally not be so in the case of the fleet owner. The general pattern indicates that the larger the operation, the less the sternman has to say about financial matters.

[5] In some cases, crewmen are paid an amount called a "broker" if the boat owner was satisfied that a reasonable effort had been made to produce a satisfactory catch. In some cases, boat owners have been known to make advances to crew members in anticipation of the proceeds of an upcoming trip.

[6] It is common for lobstermen to join shrimpers as sternmen and vice versa.

[7] Code Sections 3121(d)–2 and 3306(a)–1; Regulations §§ 31.3121(d)–1(c) and 31.3306 (i)–1.

[8] *U.S. v. Silk*, 331 U.S. 704, 716 (1947).

[9] Using a "common law" approach, it was held in a 1964 unreported District Court case (Portland, Maine) that the boat owner was

an "employer". See *Capital Trawlers, Inc. et al. v. U.S.*, Civil No. 7-63. Contra. *Barrett v. Phinney*, 67-2 USTC ¶ 9691 (D.C. Tex. 1967).

[10] District Court, Florida 9/30/70 CCH Unemployment Reporter ¶ 16.021.

[11] *Anderson Seafood*, 450 F. 2d. 567 (CA 5, 1971).

[12] A "demise charter" is generally characterized by a relinquishment of possession, command and navigation and almost total relinquishment of control. See *Guzman v. Pichirilo*, 369 U.S. 698, 699, 82 S. Ct. 1095, 1096 (1962).

[13] The witholding "rate" has been about 17-19% and this deficiency has been assessed even where it is apparent that the sternman did in fact report his share of the profits and paid his own income and self-employment taxes. It is not unusual in such a case for the total proposed deficiency to equal an entire year's net income of the boat owner.

[14] An affidavit of inclusion of the amounts received was prepared for and signed by each sternman. See B. R. Kurio, 281 F. Supp. 252 (D.C. Tex. 1968). Obviously, in a case of this type, the cooperation of third parties becomes essential. Such cooperation may or may not be available for obvious reasons in any particular case.

[15] With the taxpayer having some of the proposed deficiency reduced.

[16] If a sternman became injured on board, it appears that he could sue the boat owner. See *Anderson Seafood*, supra, where in a footnote, the Fifth Circuit pointed out that in a personal injury case under the Jones Act, two of the boat owners in that case just prior to the tax litigation involving the FICA taxes conceded employee status of an injured member.

[17] All of the rulings and cases have dealt with the situation of the nonfishing owner, captains and crew members. See *Anderson Seafood* supra.

S. 2518

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) secton 3121(b) of the Internal Revenue Code of 1954 (relating to definition of employment) is amended by striking out "or" at the end of paragraph (18), by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and by adding after paragraph (19) the following new paragraph:

"(20) service performed by an individual on a boat engaged in catching fish or other forms of marine animal life under an arrangement with the owner or operator of such boat pursuant to which—

"(A) such individual does not receive any cash remuneration,

"(B) such individual receives a share of the boat's catch of fish or other forms of marine animal life, and

"(C) the amount of such individual's share depends on the amount of the boat's catch of fish or other forms of marine animal life,

but only if such individual performs services on such boat on a substantially intermittent basis (as determined under regulations prescribed by the Secretary or his delegate).".

(b) Section 1402(c)(2) of such Code (relating to definition of trade or business(is amended by striking out "and" at the end of subparagraph (D), by striking out the semicolon at the end of subparagrph (E) and inserting in lieu thereof ", and", and by adding after subparagraph (E) the following new subparagraph:

"(F) service described in section 3121(b)(20));".

(c) Section 3401(a) of such Code (relating to definition of wages for purposes of withholding) is amended by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; or", and by adding after paragraph (16) the following new paragraph:

"(17) for service described in section 3121(b)(20).".

SEC. 2. (a) Section 210 (a) of the Social Security Act is amended by striking out "or" at the end of paragraph (18), by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and by adding after paragraph (19) the following new paragraph:

"(20) service performed by an individual on a boat engaged in catching fish or other forms of marine animal life under an arrangement with the owner or operator of such boat pursuant to which—

"(A) such individual does not receive any cash remuneration,

"(B) such individual receives a share of the boat's catch of fish or other forms of marine animal life, and

"(C) the amount of such individual's share depends on the amount of the boat's catch of fish or other forms of marine animal life,

but only if such individual performs services on such boat on a substantially intermittent basis (as determined under regulations prescribed by the Secretary or his delegate).".

(b) Section 211(c)(2) of such Act is amended by striking out "and" at the end of subparagraph (D), by striking out the semicolon at the end of subparagraph (E) and inserting in lieu thereof ", and", and by adding after subparagraph (E) the following new paragraph:

"(F) service described in section 210(a)(20);".

SEC. 3. The amendments made by the first section of this Act shall apply with respect to services performed after December 31, 1969, in taxable years ending after such date. The amendments made by section 2 of this Act shall apply with respect to services performed after such date.

By Mr. HARTKE (for himself and Mr. PEARSON) (by request):

S. 2519. A bill to amend the Regional Rail Reorganization Act of 1973. Referred to the Committee on Commerce.

Mr. HARTKE. Mr. President, Senator PEARSON and I today introduce, at the request of the Interstate Commerce Commission, a bill to provide for capitalization of the Consolidated Railway Corporation, to provide additional flexibility through a supplementary transfer procedure, to liberalize the category of persons able to participate in the light density line subsidy program, and to make clear that the Interstate Commerce Commission has authority to impose conditions designed to assure that existing rates, tariffs, routes and points of interchange are changed only in accordance with traditional Commission procedures, and I ask unanimous consent that the text of the bill be printed in the RECORD together with a section-by-section analysis of the bill and a letter of transmittal from the Chairman of the Interstate Commerce Commission.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2519

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Regional Rail Reorganization Act of 1973, 45 U.S.C. 701 et seq., is amended in the following respects:

CAPITALIZATION OF THE CORPORATION

SEC. 1. (a) Paragraph 202(a)(2) of such Act (45 U.S.C. 712 (a)(2)) is amended to read as follows:

"(2) issue obligations under section 210 of this title; make loans under Section 211 of this title; and purchase or otherwise receive and hold securities (whether debt or equity) of the Corporation under Section 216 of this title and exercise all rights, privileges and powers of a holder of any such securities."

(b) Subsection 210(b) of such Act (45 U.S.C. 720 (b)) is amended to read as follows:

"(b) MAXIMUM OBLIGATIONAL AUTHORITY.—The aggregate amount of obligations of the Association which may be outstanding at any one time shall not exceed $500,000,000."

(c) Title II of such Act (45 U.S.C. 711, *et seq.*) is amended by adding at the end thereof the following new section:

"PURCHASE OF SECURITIES OF THE CORPORATION

"SEC. 216. (a) GENERAL.—The Association is authorized, in accordance with the provisions of this section and such rules and regulations as it may prescribe, to invest from time to time in the securities of the Corporation by purchasing up to $1,000,000,000 principal amount of Debentures issued by the Corporation and, after the acquisition of such Debentures, up to $1,500,000,000 principal amount of the Corporation's Series A Preferred Stock.

"(b) PURPOSES AND PROCEDURE FOR INVESTMENT.—The Association shall purchase Debentures and thereafter Series A Preferred Stock of the Corporation, in accordance with terms and conditions governing such purchases, which shall be prescribed by the Association's Board of Directors, at such times and in such amounts as may be required and requested by the Corporation to provide for the modernization, rehabilitation and maintenance of rail properties acquired by the Corporation under this Act; for the acquisition of equipment and other capital needs; for the refinancing of indebtedness incurred by the Corporation under Section 211 of this title or incurred under Section 215 of this title and assumed by the Corporation, or to provide working capital. Purchases of up to $1,000,000,000 of Debentures and thereafter up to $1,500,000,000 of Series A Preferred Stock shall be made by the Association as required and requested by the Corporation unless the Board of Directors of the Association makes a finding that—

(1) the Corporation has failed in any material respect to comply with any covenants or undertakings made to the Association and such failure remains uncorrected, or

(2) the purchase of such securities of the Corporation will not serve to effectuate the goals enumerated in Section 206(a) of this title; and unless such finding has been approved by the Commission pursuant to subsection (d) of this section.

"(c) TERMS AND CONDITIONS.—(1) The Debentures shall rank as senior debt obligations of the Corporation; shall mature at such times, not exceeding 50 years from the date of issuance, as the Board of Directors of the Association shall prescribe; shall accrue no interest during the first 10 years following issuance, but thereafter shall bear interest at such rate as shall be established by the Association's Board of Directors at the time of issuance; and shall be issued in such denominations and be subject to such other terms, conditions, and covenants and undertakings as the Association's Board of Directors shall prescribe.

"(2) The Series A Preferred Stock shall rank senior in dividend and liquidation rights to all other shares of the Corporation's stock; shall accrue no dividends during the first 10 years following issuance, but thereafter shall be entitled to such dividends as the Association's Board of Directors shall prescribe at the time of issuance; and shall be subject to such other terms and conditions as the Association's Board of Directors shall prescribe."

"(d) APPROVAL BY THE COMMISSION.—In the event that the Association makes a determination pursuant to paragraph (b)(1) or paragraph (b)(2) of this section not to purchase securities of the Corporation, the

Commission and the Corporation shall be notified immediately of such determination together with the Association's reasons therefor, and such determination shall not become effective without the Commission's approval. The Commission shall approve such a determination by the Association within 90 days of its submission unless it finds that further purchases of the Corporation's securities, within the limits established by subsection (b) of this section, are essential to effectuation of the goals enumerated in section 206(a) of this title. If the Commission shall fail to act on any such determination of the Association within 90 days of its submission, it shall be deemed to have given its approval.

"(e) APPROPRIATION.—There is authorized to be appropriated to the Association the sum of $2,500,000,000 to be used for the purchase of securities of the Corporation in accordance with this section. All sums received by the Association on account of the holding or disposition of any such securities shall be deposited in the general fund of the Treasury."

(d) Section 301 of such Act is amended by repealing subsection (f), redesignating subsections (e) and (g) as subsections (g), and (h) respectively, striking the first two sentences of redesignated subsection (g) and substituting the following: "In order to carry out the final system plan, the Corporation is authorized to issue Debentures, Series A Preferred Stock, Series B Preferred Stock, and other securities. Debentures and Series A Preferred Stock shall be issued initially to the Association pursuant to section 216 of this Act. Series B Preferred Stock and common stock shall be issued initially to the estates of railroads in reorganizations in the region, to railroads leased, operated, or otherwise controlled by railroads in reorganization in the region, and to other transferors of rail properties in exchange for rail properties transferred to the Corporation pursuant to the final system plan. Such initial issuance of Debentures, Series A Preferred Stock, Series B Preferred Stock, and common stock, but not the issuance of any other securities of the Corporation, shall be deemed to have been authorized pursuant to section 20a of the Interstate Commerce Act, as amended (49 U.S.C. 20a)."

(e) Paragraph 303(c)(2) of such Act (45 U.S.C. 743(c)(2)) is amended by striking the word "shall" in line 5 and inserting the words "may do any or all of the following" in lieu thereof; by striking the word "and" at the end of subparagraph (A); by striking all preceding the word "order" in subparagraph (B); by striking the word "and" at the end of subparagraph (B); and by striking subparagraph (C) and inserting in lieu thereof the following:

"(C) enter a judgment against the corporation, but no such judgment shall be entered which would impair the Corporations's financial self-sufficiency, credit, or solvency."

TRANSFERS SUBSEQUENT TO THE EFFECTIVE DATE OF THE FINAL SYSTEM PLAN

SEC. 2. Title II of such Act (45 U.S.C. 711 *et seq.*) is further amended by adding at the end thereof a new section 217 as follows:

"SUPPLEMENTARY TRANSFERS

"SEC. 217. (a) INITIATION BY THE ASSOCIATION.—If at any time within two years following the effective date of the Final System Plan the Association shall find, either upon its own motion or upon petition, that the goals of this Act would better be achieved by the transfer of additional rail properties to or from the Corporation, it may revise or supplement the designations made in the Final System Plan under section 206(c) of this Act. Notice of any proposal for such revised or supplemental designation shall be given through publication in the Federal Register, and the Association, in such notice, shall provide for a period of not less than 60 days for the receipt by the Association and the Commission of public comment. At the end of this period, the Association, if it so desires, shall have ten days in which to modify the initial proposal in accordance with the public response.

"(b) REVIEW BY THE COMMISSION.—Within 90 days of the final date by which the Association may modify a proposal under this section, the Commission shall determine whether the acquisition proposed by the Association or other interested persons would be in full accord and comply with the provisions and standards of section 5 and other applicable provisions of the Interstate Commerce Act considering, among other things, any substantial impairment of the Corporation's ability to meet the goals of this Act and the possible increased public costs involved. The Commission may make its approval of such an acquisition subject to such reasonable terms and conditions as it may find to be required in the public interest, and no such acquisition shall be made in the absence of the Commission's approval, except that if the Commission shall fail to act within the time period provided in this paragraph, it shall be deemed to have given its approval of the acquisition as proposed by the Association. The Commission may prescribe such regulations as may be necessary for the administration of this section.

"(c) FINAL REVISED DESIGNATIONS.—Within 30 days following issuance of the Commission's approval, in whole or in part, of any revised designation under this section, the Association shall issue its final revised designation, which shall be consistent with the determinations made by the Commission under section (b) above. Should the Association fail to act upon a specific designation within this 30 day period, no further proceedings will be conducted with respect to said designation. Within 30 days after the Association issues its final revised designation pursuant to this section, each proposed transferor or transferee (other than the Corporation) shall notify the Association in writing of its acceptance of the offer incorporated in the final revised designation. If any such proposed transferor or transferee fails to notify the Association that the final revised designation is acceptable to it, no further administrative or judicial proceedings shall be conducted with respect to such final revised designation.

"(d)(1) ROLE OF THE SPECIAL COURT.—If such transferor or transferee accepts the offer of the Association made pursuant to the above subsection the Association shall, within 10 days of such notification, file with the special court a request for determination, to be provided within 90 days from such filing with the special court that the terms under which the rail property or properties to be transferred, including, among other things, the compensation to be paid and the valuation of such property or properties, are fair and equitable to the holders of the Corporation's Common and Series B Preferred Stock. In all other respects, the determinations of the Association and the Commission shall not be reviewable by any court."

"(2) If the special court determines that the terms and provisions of such acquisition are fair and equitable, it shall issue such orders as may be necessary to direct the Corporation to consummate the proposed transactions. If the special court determines that the terms are not fair and equitable, it shall file an opinion stating its conclusions and the reasons therefor. Such opinion shall state what terms the special court would find to be fair and equitable under the involved circumstances. In such event, the Association shall issue a new revised designation, which shall then be subject to the procedures described in subsections (c) and (d) of this section."

CORPORATION DIRECTORS AND OFFICERS

SEC. 3. (a) Subsection 301(c) of such Act (45 U.S.C. 741(c)) is amended by striking the second sentence thereof and substituting the following sentence:

"The members of the Executive Committee of the Association shall also adopt the initial by-laws of the Corporation and serve as the Board of Directors until at least 5 members of the Board of Directors shall have been selected in accordance with subsection (d) of this section."

(b) Subsection 301(d) of such Act (45 U.S.C. 741(d)) is amended to read as follows:

"(d) BOARD OF DIRECTORS.—The Board of Directors of the Corporation shall consist of 9 qualified individuals selected in accordance with the articles and by-laws of the Corporation as follows: two individuals appointed by the President by and with the advice and consent of the Senate; one individual selected by the holders of the Corporation's Debentures and Series A Preferred Stock, voting as a class; two individuals selected by the holders of the Corporation's Series B Preferred Stock; two individuals selected by the holders of the Corporation's common stock; and two individuals selected by the Corporation's Board of Directors."

(c) Section 301 of such Act (45 U.S.C. 741) is amended by inserting new subsections (e) and (f), reading as follows:

(e) OFFICERS.—The officers of the Corporation shall include a Chairman and a President, who shall be elected by the Board of Directors from their membership, and who shall serve at the pleasure of the Board; and such other officers as shall be provided for in the by-laws of the Corporation. The President, who shall be chosen for his recognized abilities, leadership, and experience, shall report to the Board of Directors and to no other officer of the Corporation, shall be responsible for the conduct of all departments concerned with operations, personnel, marketing, sales, planning, engineering, finance, treasury and accounting, and all other functions necessary to the provision of efficient, economical and reliable transportation services of the quality and character required to achieve the purposes and objectives of this Act, and particularly the first-named goal of section 206(a) of this Act. The Chairman and the other officers of the Corporation shall have such duties and responsibilities as from time to time may be assigned to them by the Board of Directors or the President and are not inconsistent with the duties and the responsibilities of the President.

"(f) Upon the effective date of the final system plan as provided in section 208 of this Act, and until the distribution of securities of the Corporation in accordance with section 303(c) of this title shall have been effectuated, the special court shall appoint one or more voting trustees to exercise the rights of holders of the Corporation's Series B Preferred and common stock; or in the alternative, and in the special court's sole and exclusive discretion, it may appoint Directors to represent the Series B Preferred and common stock of the Corporation pursuant to subsection (d) of this section. In determining whether to appoint voting trustees or Directors, and in selecting any such voting trustees or Directors for appointment, the special court may entertain and consider the views of any interested parties, but shall be guided primarily by the consideration that the interests of the ultimate beneficiaries of the Corporation's Series B Preferred Stock and common stock, as well as the public interest, will be best served by the selection of persons of the highest stature, integrity, and business experience."

SUBSIDIZED LINES

SEC. 4. (a) Subsection 402(b) of such Act (45 U.S.C.), is amended by adding at the end thereof a new paragraph (3) as follows:

"(3) The Secretary is authorized and directed to provide financial assistance under this section to provide for the continuation of local rail services, for a period of not more than one year, to any person whom the Secretary shall find is financially responsible and who will assume the legal liability for the payment of the State share of a rail service continuation subsidy, regardless of the eligibility of the State within which are located the rail properties over which such services are to be performed to receive rail service continuation subsidies under paragraph (c) of this section. In the event that the available subsidy funds prove inadequate, transportation authorities shall have priority."

(b) Title IV of such Act is amended by adding at the end thereof the following new section:

"ANALYSIS OF SUBSIDIZED LINES"

SEC. 404. (a) STUDY BY THE COMMISSION.—The Commission shall analyze each rail line of a railroad in reorganization in the region, and of railroads leased, operated, or controlled by a railroad in reorganization, which is not designated to be continued pursuant to the Final System Plan and which is operated pursuant to the provision of this title to determine—

"(1) the actual revenues and costs associated with the operation of each such line;

"(2) the changes, if any, in rates, patterns of service, physical condition of each such line or other factors required for the economic viability of said line; and

"(3) based upon the foregoing information, the prospects of the lines becoming economically viable within a reasonable period of time. "In preparing such analyses the Commission may hold public hearings in the region and shall solicit and consider the views of the States, local communities, rail users, Federal agencies and other interested persons. Within 180 days after the date upon which the Commission receives notice that operations over a line have begun under a rail services continuation subsidy, the Commission shall determine which rail lines subject to this section are economically viable and should be transferred to the Corporation or another railroad operating in the region. Such designations shall not be inconsistent with State rail plans. The Commission shall publish such designations in the Federal Register and shall invite interested persons to submit comments within 30 days after such publication. Within 60 days after the publication of notice that a line should be transferred to the Corporation or to a profitable railroad with its consent under this section, the Commission shall issue its final revised designation and shall transmit such revised designation, together with the valuation of the rail properties involved as determined pursuant to the standards issued under section 205(d)(3) of this Act, to the special court.

"(b) TRANSFERS TO RAILROADS OTHER THAN THE CORPORATION.—The Association shall, at the time the Commission publishes its determination in the Federal Register, determine whether the rail properties involved should be operated by the Corporation or by another railroad. If it determines that such properties should be operated by a railroad other than the Corporation, it shall conduct negotiations with such other railroad and with the trustees of the rail properties involved to fix the terms and conditions of the transfer of such properties. The valuations and agreements, if any, between such other railroad and such trustees shall be certified by the Association to the special court at the same time as the Commission's revised designations. In the absence of such a certification, such rail properties shall be transferred to the Corporation, for operation by the Corporation or, with Commission approval, by another entity."

"(c) REVIEW BY THE SPECIAL COURT.—The special court shall complete its review of any revised designation within 90 days of its receipt of such designation. Valuations agreed to between a railroad other than the Corporation and the trustees of the rail properties involved, as certified by the Association, shall be conclusively presumed to be fair and equitable. Valuations of rail properties to be transferred to the Corporation shall be reviewed by the special court to determine whether they are fair and equitable to the holders of the Corporation's Common and Series B Preferred Stock. If it finds that such valuations are not fair and equitable, the special court shall issue an opinion revising such valuations and stating its reasons therefor. Upon the completion of its review, the special court shall issue such orders as may be necessary to effect consummation of the proposed transfers. Transfers effected under this section shall be treated as if they had been effected pursuant to the Final System Plan and shall not be subject to approval under section 5 of the Interstate Commerce Act (49 U.S.C. 5)."

PRESERVING PRESENT SERVICE PATTERNS

SEC. 5. Title VI of such Act (45 U.S.C. 790) is amended by adding at the end thereof the following new section:

"TARIFFS AND TRAFFIC CONDITIONS

"SEC. 606. (a) TARIFFS.—The Corporation and any other railroad to which rail properties are transferred under this Act shall be deemed to have adopted and affirmed, without any further action on its part, all portions of the tariffs, schedules and division agreements of its predecessors in interest effective upon the date of such transfer which relate to services performed over rail properties transferred under this Act, and such relevant terms and provisions of all such tariffs, schedules and division agreements shall remain in effect unless and until they are changed pursuant to appropriate provisions of the Interstate Commerce Act, or, in the case of division agreements, by agreement of the parties.

"(b) PRIOR CONDITIONS.—Any condition imposed by the Commission in the course of any merger or other proceeding involving any predecessor in interest of the Corporation or any other railroad to which rail properties are transferred under this Act, and which was imposed in order to assure the continuation of competitive rail service or to avoid undue diversion of traffic from another railroad, shall remain in full force and effect as to the services performed by the Corporation or such other railroad, unless and until modified or removed by the Commission.

"(c) TRAFFIC PROTECTIVE CONDITIONS.—The Commission, upon petition or upon its own initiative, after hearing, may establish such reasonable routes and regulations, modify existing conditions, or impose upon the Corporation or any railroad to which properties are transferred under this Act such reasonable conditions for the movement of traffic and the handling of cars as it may deem necessary and appropriate to assure that rail properties transferred pursuant to this Act shall be operated in the manner which will best—

"(1) achieve the purposes stated in paragraphs 206(a)(4) and 206(a)(5) of this Act; and

"(2) assure that services performed over such rail properties on the effective date of the Final System Plan are continued and that all channels of trade are maintained and kept open.

"(d) SERVICE CONTINUATION.—In the event that the implementation of the Final System Plan results in any disruption of rail service, the Commission pursuant to its existing authority, as set forth in the Interstate Commerce Act (49 U.S.C. 1 *et seq.*), shall take such action as it deems necessary to assure the continuation of transportation service in the public interest."

RAIL SERVICES PLANNING OFFICE APPROPRIATIONS

SEC. 6. Paragraph 214(b) of such Act (45 U.S.C. 724(b)) is amended by striking the figure "$5,000,000" and inserting in lieu thereof the figure "$6,000,000".

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., September 26, 1975.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN MAGNUSON:

In its Evaluation of the United States Railway Association's Final System Plan, the Interstate Commerce Commission made several recommendations for amending the Regional Rail Reorganization Act of 1973. Enclosed is draft legislation which would effect these recommendations, together with a section-by-section analysis. The Commission asks that your Committee consider this legislation as it gives general consideration to the Final System Plan in the next few weeks.

The recommendations which the Commission made in the *Evaluation* fall into five categories:

1. We recommend that changes be made to provide for a more flexible capital structure for the Consolidated Rail Corporation and that the Association be given the authority to purchase ConRail securities which would not initially accrue interest or dividends. (*Evaluation*, pages 43 and 44.) Section 1 of the enclosed bill would accomplish this end.

2. We recommend that the Act be amended to permit the transfer, under expedited procedures, of additional properties to or from ConRail for a two-year period following the effective date of the Final System Plan in cases where the Association and the Commission find that this would better achieve the stated goals of the Act. (*Evaluation*, pages 11 and 14.) Section 2 of the accompanying bill would make such a provision.

3. We recommend that the make-up of the Corporation's board of directors be changed to eliminate the *ex officio* membership of government employees and to give majority representation to the representatives of the debtor estates. (*Evaluation*, page 45.) Section 3 would make these changes.

4. We recommend that the Act be amended to permit "any responsible person" to receive Federal matching-grant subsidy payments during the first year of subsidy and that provision be made for further study of the subsidized lines by the Commission and for the subsequent inclusion in ConRail of those lines found to be profitable. (*Evaluation*, pages 46 through 49.) Section 4 of the enclosed bill would accomplish this end.

5. We recommend that the Commission be given authority to impose conditions such as those it has traditionally imposed in the course of railroad merger proceedings to protect the traffic of other railroads and that ConRail be required to adopt the rates and tariffs of the railroads whose properties it will purchase and to keep open existing routes and points of interchange with other railroads. (*Evaluation*, pages 11 and 14.) Section 5 would carry out this recommendation.

In addition to these recommended amendments, which would implement the recommendations made in our Evaluation of the Final System Plan, we are submitting one additional proposal, contained in section 6 of the enclosed bill, which would increase the authorized funding for the Rail Services Planning Office by $1 million. The need for this additional funding is explained in the accompanying section-by-section analysis of our proposed bill.

We recommend the introduction and ap-

proval of the enclosed bill amending the Regional Rail Reorganization Act.

Sincerely yours,

VIRGINIA MAE BROWN,
Acting Chairman.

SECTION-BY-SECTION ANALYSIS

SECTION 1

The Commission believes that the capital structure proposed in the Final System Plan would impose too onerous a burden of fixed interest and dividends on ConRail, and that any presumed benefits to the taxpayers of this structure would prove to be illusory. If the plan's projections were achieved, the private investors would have to pay the Government $7.447 billion to return ConRail to the private sector:

	Million
Redemption of Debentures and Series A Preferred issued for cash	$1,841
Cash dividends and interest, years 1982 through 2,016	4,718
Redemption of Series A Preferred issued in lieu of Cash dividends	888
	$7,447

To the extent that the projections are not achieved, there would be a disproportionate increase in the required payback caused by the issuance of additional Series A Preferred at issue prices less than the mandatory redemption prices.

If the Government insists on such a top-heavy capital structure and on domination of the Corporation's Board until it has been repaid with interest, important support will have been provided for the argument of the debtor estates that the conveyances under the Act constitute a taking of their properties for public use, and that the proper measure of their values thus is reproduction cost new less depreciation. We cannot prejudge the Special Court's decision on these matters, but if this argument were presented to us in similar circumstances in a proceeding arising under Sec. 77 of the Bankruptcy Act we would feel obliged to award it substantial consideration. In contrast, the net liquidation values established by the Association in the Final System Plan are rooted in traditional income-based reorganization doctrines (Plan, page 122).

No one can estimate at this stage with any pretense of precision what the differences between values based on reproduction cost new less depreciation and values based on net liquidation would ultimately be determined to be. But the Penn Central trustees alone have claimed that their properties are worth $7.4 billion as against the $471 million stated in the Plan (page 126). This would appear to set an upper limit on the scope of the Government's excess Tucker Act exposure in respect of Penn Central—about $7 billion in present value. Applying compound interest at 8 percent to December 31, 1987 (the ultimate redemption date of the proposed certificates of value) would increase this excess exposure to about $17.6 billion.

To be sure, the Plan provides that the Government Investment Committee could, if it wished, waive the dividends and interest. But whether it will do so cannot be known at the time the valuation cases are before the Special Court. Thus, we believe that the proposed capital and management structure of the Final System Plan could expose the Government to Tucker Act claims ranging up to 3 times the value of the projected interest and dividends (cash and stock) which we believe, in any event, to be largely illusory.

The amendments to the Act proposed in Sections 1 and 3 of the enclosed draft bill are intended to implement the Commission's recommended ConRail capitalization and management changes (Evaluation, pages 44–45). No interest or dividends would accrue during the first ten years on the securities issued to the Association in return for its "front end" funding contribution, there would be no *ex officio* Government directors, and directors representing the securities awarded the debtor estates would have the responsibility for directing ConRail's management into profit-oriented channels. The securities held by the Association would, however, have seniority in dividend and liquidation rights over those of the debtor estates, and the Government would have representation on the Board sufficient, in our view, to protect its interests. It should be noted also that ConRail, as other railroads, will be subject to the Commission's regulation to whatever extent Congress in the future believes railroads should be regulated to protect the public interest.

The capital and management structures proposed in these amendments would, we believe, not only serve to reduce the Government's exposure to a Tucker Act award, but also enhance the chances of its investment being repaid. This is so because if ConRail does succeed as a private enterprise reorganized railroad, as we believe it can, the Government can expect to have its securities redeemed with interest, after 1985.

To minimize the scope of changes necessary in the Final System Plan, the basic capital structure therein, consisting of Debentures and Series A Preferred Stock to be issued to the Association, and of Series B Preferred and common stock to be issued the debtor estates, is retained. The Association would be authorized to purchase up to a total of $2.5 billion of such ConRail Debentures and Series A Preferred—the same total amount of funding as is proposed to be authorized in the Final System Plan.

In addition to changing ConRail's capitalization, the proposed amendments provide for Commission review of any decision by the Association to terminate ConRail funding; for the composition of the Board of Directors; for designating the duties and responsibilities of the Chairman and President; and for protecting ConRail against a deficiency judgment which could imperil its financial self-sufficiency or solvency.

Some discussion of the $2.5 billion "front end" funding appears to be in order. The Commission has expressed the opinion that the Final System Plan's financial projections are over-optimistic and that the Special Court may determine a greater valuation for the properties acquired from the debtor estates than is provided in the plan. It appears to be neither feasible nor essential to provide at this time for any funding which may become necessary following the Special Court's ultimate decision. Also, it is not necessary at this time to attempt a precise prejudgment of ConRail's ultimate funding requirements. What is necessary and prudent is to provide the company from the outset with a competent, profit-oriented management and such funding as could reasonably be expected to see it through, say, the first five years. We believe that the $2.5 billion is probably sufficient for the purpose.

The Final System Plan financial projections estimate total gross funding requirements during the five years 1976–1980 (over and above initial acquisition costs, which are to be paid in stock) of $2.344 billion comprised of: $136 million initial working capital, $459 million deferred track structure replacements, $652 million current track structure replacements, $603 million roadway capital improvements, $430 million in new freight equipment, and $64 million for repayment of Sec. 215 loans to the Department of Transportation. Offsetting these amounts in the projections are $211 million in Corridor expense reimbursements, $173 million in equipment financing, and $254 million in forecast internal cash generation before accruals for interest and income taxes; leaving a net requirement for $1.706 billion in Government-provided funds if interest is not taken into account. We assume that any funding required for Amtrak in connection with the plan will be provided through authorizations and appropriations to Amtrak. We have questioned whether the $254 million of internal cash will in fact be generated, and we believe that the roadway rehabilitation ought, to the extent possible, to be expedited. The $2.5 billion authorization would provide a margin of $800 million for financial results during this first five years less favorable than those projected and for accelerating the rehabilitation program. We believe that this is a reasonable margin for Congress to authorize at this time.

Sec. 1(a) of the proposed amendments amends Sec. 202(a)(2) of the Regional Rail Reorganization Act of 1973 (the Act) to authorize the Association to acquire, hold, and vote the proposed ConRail securities to be issued to it.

Sec. 1(b) amends Sec. 210(b) of the Act to reduce the Association's authority to issue Government-guaranteed obligations from $1.5 billion to $500 million, since it is intended that it acquire the ConRail securities directly, rather than through issuance of guaranteed loans. The $500 million should be sufficient to cover its remaining responsibilities under Sec. 211 of the Act.

Sec. 1(c) amends Title II of the Act by adding a new Sec. 216 providing the mechanism for purchase of ConRail securities by the Association.

The new Sec. 216(a) would authorize acquisition of up to $1 billion principal amount of Debentures and up to $1.5 billion of Series A Preferred Stock.

New Sec. 216(b) provides that the Debentures and Preferred stock may be purchased by the Association as needed by ConRail for modernization and rehabilitation of its properties, for the acquisition of equipment and other capital needs, for refinancing Sec. 211 and Sec. 215 obligations, and for working capital. The Association could refuse to purchase ConRail securities for such purposes, up to the limits authorized, only if its Board of Directors makes certain specific findings, and on approval of the Commission pursuant to new Sec. 216(d).

New Sec. 216(c) describes the principal features of the Debentures and Preferred Stock, which would be senior securities of ConRail in interest, dividend, and liquidation rights, but would accrue no interest or dividends during the first ten years.

New Sec. 216(d) requires that if the Association decides to terminate ConRail funding for either of the reasons permitted by Sec. 216(b), it must obtain the Commission's approval, which shall be deemed to have been given if it has not acted within 90 days. The Commission must approve unless it finds that further purchases of ConRail securities, within the limits authorized, are essential to achieving the goals enumerated in the Act. It seems desirable that the public have such protection against any possibly arbitrary or unfounded decision which could have an adverse effect on the quality of ConRail's service or affect the competitive balance in the region.

New Sec. 216(e) authorizes appropriation to the Association of the $2.5 billion for the purchase of ConRail Debentures and Series A Preferred Stock, and directs that any sums received by the Association on account of the holding or disposition of the securities be deposited in the general fund of the Treasury. Although, of course, during the first decade no interest or dividends will be received, it is anticipated that ultimately, if the ConRail reorganization is successful, these securities would be valuable and could either be redeemed or retained for their yield.

Sec. 1(d) amends Sec. 301 of the Act by repealing subsection (f), redesignating subsections (e) and (g) as subsections (g) and

(h) respectively, and changing the first two sentences of redesignated subsection (g) to authorize ConRail's initial capitalization consisting of Debentures, Series A Preferred Stock, Series B Preferred Stock, and common stock, with the latter two classes going to the debtor estates. To obviate the possibility of future misunderstanding, the Commission's approval under section 20a of the Interstate Commerce Act for the issuance of Debentures and Series A Preferred Stock to the Association and the initial issuance of Series B Preferred Stock and common stock to be deposited with the special court for distribution to the debtor estates would be deemed to have been obtained. The issuance of any other securities (such as equipment trust certificates) would be subject to the normal processes of section 20a.

The effect of striking the present subsection (f) is to remove the requirement that ConRail shall be subject to the provisions of the Government Corporation Control Act for the purposes of audit. If ConRail is in fact intended to be a private enterprise Corporation and is to be subject to the Commission's Uniform System of Accounts, no useful purpose appears to be served by subjecting it to a duplicative audit.

Sec. 1(f) amends Sec. 303(c)(2) of the Act to provide that no deficiency judgment shall be entered by the special court which would have the effect of impairing ConRail's financial self-sufficiency, credit, or solvency. We believe this to be essential to any prospect of ConRail's ultimately being able to obtain private-market financing, even equipment financing. Moreover, it would create no additional potential risk to the taxpayers, since to the extent that ConRail's solvency might be endangered by such a judgment, the amount of Government funding would be increased.

SECTION 2

This section would implement the recommendations contained in the fourth paragraph on page 14 of the Commission's Evaluation of the Final System Plan, which suggested that the Congress

". . . amend the Act to provide for amendment of the Final System Plan if it were found that this would better achieve the goals stated in the Act. This would allow the Association to propose additional transfers of rail properties, subject to review by the Commission under the expedited procedures of Section 206(d)(3) of the Act."

Such an amendment would authorize the Association to make designations of additional rail properties to be transferred to or from the Corporation if this would serve better to meet the goals of the Act. Such transfers might be of considerable scope. For example, if the preferred industry structure (ConRail-Chessie) cannot be accomplished, and the result is the creation of Unified ConRail, the Association might propose that substantial portions of the properties now slated for transfer to Chessie be transferred instead to some other railroad (or to the Chessie itself under modified terms) in order to preserve rail competition in the northeast. On the other hand, such transfers might be much more modest, resembling the kind of joint-use arrangements which represented the majority of the coordination projects approved previously under section 206(c) of the Act.

This section adds a new section 217 to the Act. Subsection (a) of proposed section 217 provides for the Association to initiate proposals for transfer, either on its own initiative or upon petition. It would be required to give notice of transfer proposals through Federal Register publication and to provide at least 60 days for public comment, which would be addressed to both the Association and the Commission. The Association would be given 10 days within which to modify its proposal in light of the public comment.

Subsection (b) provides for a review of the transfer proposals by the Commission, under terms similar to those now provided in section 206(c) of the Act. That review would have to be accomplished within 90 days of the date set by the Association for the receipt of public comment.

Subsection (c) requires the Association to issue its final designation for transfer within 30 days following the Commission's approval. Transferors or transferees, other than the Corporation, would have to notify the Association within 30 days of their acceptance of the proposal. The Association's finding that a transfer should be effected would be binding upon the Corporation.

Subsection (d) provides for review by the Special Court of the compensation to be paid. Should the Court determine that the transaction is fair and equitable to the holders of the Corporation's Common and Series B Preferred Stock (that is, its nongovernment owners), it would direct that the transfer take place. If it found that the transaction is not fair and equitable, it would reject the proposal, and the Association would adjust the terms accordingly and resubmit the proposal to the transferor or transferee, other than the Corporation, and then to the special court.

SECTION 3

Sec. 3(a) amends Sec. 301(c) of the Act so as to provide that the Executive Committee of the Association shall serve as ConRail's Board of Directors only until at least five members of the 9-member Board shall have been selected in accordance with amended Sec. 301(d). The Final System Plan (p. 98) recommended that the transition from the 5-member temporary Board to the permanent Board should not await distribution of the Securities to the debtor estates, but should occur at the date of conveyance or as soon thereafter as all of the presidential appointees have been confirmed. We see no reason to wait that long, and this amendment would permit the new Board to take over as soon as a majority have been qualified.

Sec. 3(b) amends Sec. 301(d) of the Act to provide that ConRail's Board will consist of 9 members: two appointed by the President, one representing the securities held by the Association, four representing the Series B Preferred and common stock, and two to be selected by the Directors. This implements the Commission's recommendation (*Evaluation*, p. 45) that the Board consist of less than 15 members, that it include no *ex officio* Government officials, and that the debtor estates be allowed greater proportional representation in order to provide an opportunity for private enterprise profit-oriented management to demonstrate whether it can or cannot succeed. It should also serve to reduce the Government's Tucker Act exposure.

Sec. 3(c) amends Sec. 301 of the Act by inserting two new subsections.

New Sec. 301(e) provides that ConRail's Chairman and its President shall be elected from among the membership of the Board and shall serve at the pleasure of the Board. It defines broadly the duties and authority of the President and specifies that he shall report to and be responsible to the Board, and sets forth his primary goals. The purpose is to clarify the intent that ConRail's management is to be profit-oriented.

New Sec. 301(f) provides a mechanism whereby the special court, pending the distribution of securities to the debtor estates, may appoint either voting trustees or directors to represent the interest of the Series B Preferred and the common stock.

SECTION 4

This section amends Title IV of the Act to make certain changes in the branch-line subsidy program. These changes reflect the Commission's recommendations discussed at pages 46 through 49 of its Evaluation of the Final System Plan.

Section 4(a) would add a new paragraph to present subsection 402(b) of the Act. This provision would make Federal matching grant funds available to "any responsible person" rather than only to States or local or regional transportation authorities. This change would be effective only for the first year of subsidy, and the Secretary of Transportation would be directed to give priority to the needs of States or local or regional transportation authorities in the event that the funds available for distribution in any one State ran short. This provision is designed to enable an individual rail user to receive the Federal subsidy funds, and is believed necessary because it is clear that some States in the region will not be ready on time to take advantage of this program.

Subsection (b) of section 4 would add a new section 404 to Title IV. It provides for a restudy by the Commission of those lines omitted from the Final System Plan but operated under subsidy. Subsection (a) would require the Commission to analyze each of these lines to determine its actual costs and revenues, what changes in its operation might elevate it to a profitable status, and what their prospects for eventual profitability are. The holding of public hearings would be discretionary with the Commission, but it would be required to solicit and consider the views of States, local communities, users, Federal agencies, and other interested persons. It would have 180 days within which to complete its analysis. The time period would start to run upon the receipt by the Commission of notification that operation of a line under subsidy has commenced. The Commission would determine whether a line is viable, and would designate such a line for transfer to the Corporation or to another railroad in the region. The designations would be published, and 30 days allowed for public comment. Within 60 days following the publication, the Commission would issue its revised designation and transmit it to the special court. It would also transmit to the special court the valuation of the rail properties involved as determined by the Standards for Determining Rail Service Continuation Subsidies issued under section 205(d)(3) of the Act (49 C.F.R. § 1125.6).

Subsection (b) provides for the treatment of lines which would more efficiently be operated by a railroad other than the Corporation. The Association is given the role of attempting to negotiate a valuation and transfer agreement between such a railroad and the trustees of the rail properties involved. If such an agreement can be negotiated, the Association would certify its terms to the special court at the same time as the transmission to the court of the Commission's final designation. If such an agreement cannot be reached, the properties would be transferred to the Corporation. Thus, in a situation where a line did not physically connect with a ConRail line, it would be left to ConRail to decide whether to conduct the operation, to arrange for another railroad to conduct it, or to attempt to find a buyer. (In the latter two instances, Commission approval of the transaction would be necessary.)

Subsection (c) provides for review of the terms of the transfer by the special court, which would have to make its determinations within 90 days of receipt of the Commission's designation. The terms of agreements agreed to by a railroad other than the Corporation and the trustees of the property involved could not be disturbed by the court. It would, however, review transfers to the Corporation to assure that the terms are fair and equitable to the holders of its Common and Series B Preferred Stock. If it found those terms to be unfair, it would revise

them as necessary. Upon completion of its review, the court would issue orders directing the consummation of the proposed transfer. The transfers would take place as if made pursuant to the Final System Plan, and would require no further approval by the Commission under the Interstate Commerce Act.

SECTION 5

Section 5 of the bill would add a new section 606 of Title VI of the Act. The new section contains several provisions designed to assure that service now being provided over the lines of railroad to be transferred to ConRail or other carriers pursuant to the Final System Plan will be continued without interruption. It would also permit the Commission to impose conditions which would require the transferees of these properties to continue present joint service arrangements with other carriers, thus permitting these carriers—usually the smaller railroads operating in the region—to continue to compete effectively in a new environment dominated by ConRail.

Paragraph (a) of proposed new section 606 provides that ConRail, or any other carrier to which rail properties are transferred under the Final System Plan, will be deemed to have adopted the tariffs and rate division agreements of its predecessors. The tariffs could be modified only under the appropriate provisions of the Interstate Commerce Act, which normally require filing of proposed changes on no less than 30 days' notice. Division agreements could be changed only upon agreement of the parties. This provision is designed to assure continuity of service at the rates and charges already on file and thus known to the users of the rail services involved. It would also keep in effect those joint rates under which through service is performed by the railroads in reorganization in conjunction with their connecting carriers, both within and beyond the region. It will not eliminate the requirement that adopting supplements be filed to the tariffs now on file with the Commission. Thus, the tariff users would be fully informed of the fact of adoption by ConRail or other transferee.

Paragraph (b) provides that any traffic protective condition imposed by the Commission in the course of any previous rail merger or other proceeding involving the present owner of a line to be transferred to ConRail or another railroad under the Final System Plan shall remain in full force and effect and apply to the operations performed by the new owners, unless and until such conditions are modified by the Commission. Many such conditions are now in effect, particularly as a result of the Penn Central merger decision, and they provide a degree of protection to smaller railroads that now compete with Penn Central for traffic. To retain these conditions in effect until the Commission finds that they may properly be relaxed or removed would assure that these smaller carriers would not suffer an abrupt loss of traffic, and would serve to implement the goal stated in section 206(a)(4) of the Act that existing patterns of service be preserved.

Paragraph (c) would allow the Commission, after hearing, to impose new conditions upon the operations of railroads to which are transferred the properties of the carriers in reorganization. Such conditions might be found necessary in order to carry out the stated goals of the Act, principally those of paragraphs 206(a)(4), cited immediately above, and 206(a)(5) concerning the retention of competitive rail services in the region. This paragraph would give the Commission discretion to impose conditions in any situation in which it found this to be necessary to assure that existing rail services are maintained and that existing routings and interchanges are kept open, after the transfers envisioned by the Final System Plan take place.

These conditions have often followed the form of what are commonly known as the "DT&I Conditions" because they were articulated in their present form in a case involving that railroads—*Detroit, T. & I. R. Co. Control*, 275 I.C.C. 455, 492 (1950). The Commission imposed these conditions upon all the transfers which it approved under section 206(d)(3) of the Act, so they already apply to the properties transferred to the Chessie System railroads and other transferees under the Final System Plan other than ConRail. As imposed in the section 206(d)(3) coordination cases, the conditions read as follows:

1. That the acquiring railroad shall maintain and keep open all routes and channels of trade via existing junctions and gateways, unless and until otherwise authorized by the Commission.

2. The present handling of traffic shall be continued so as to permit equal opportunity for service to and from all lines reaching those involved in a given project without discrimination as to routing or movement of traffic and without discrimination in the arrangement of schedules.

3. The present traffic and operating relationships existing between lines involved in a given project and all other lines connecting with these shall be continued insofar as such continuation is feasible and is within the control of the acquiring railroads.

4. The acquiring railroad shall accept, handle and deliver all cars in-bound and outbound, loaded and empty, without discrimination in promptness or frequency of service as between cars destined to or received from competing carriers and irrespective of destination or route of movement.

5. The acquiring railroad shall not do anything to restrain or curtail the right of industries located on the involved lines to route traffic over any or all existing routes and gateways.

6. Any party or any person having an interest in the subject matter may at any future time make application for such modification of the above conditions, or any of them, as may be required in the public interest, and jurisdiction shall be retained by the Commission to reexamine each and every project herein for the same purpose.

Paragraph (d) directs the Commission in the event that implementation of the Final System Plan results in any disruption of rail service, to take any action now authorized under the Interstate Commerce Act to assure the continuation of transportation services. Such authority is found, basically, in section 1(15) of that Act, and it is under that section that the Commission orders rerouting of traffic in the event that a line is closed by natural disaster or accident and under which it issues car services orders to alleviate emergency car shortages. The particular problem which is envisioned under the Final System Plan is that service may be terminated over lines which form a portion of a through route relied upon by particular shippers. For example, it is probable that service over extensive portions of the Erie Lackawanna lines west of Akron, Ohio, will be terminated. A grain shipper in Indiana located on the Erie mainline has heretofore shipped his products to the east coast over the EL. While he still may retain rail service at his elevator, much of the rail line over which his shipments have moved will no longer be in existence. The shipment may, in fact, have to move west to a junction point with another railroad before moving to its east coast destination. Should the railroads that will be involved in moving this shipment fail to establish joint rates and through routes for its movement in a timely manner, the Commission, acting under this paragraph, could require their establishment on short notice. This provision makes it clear that the authority which the Commission now has under section 1(15) of the Interstate Commerce Act applies to situations arising as a result of the implementation of the Final System Plan.

SECTION 6

This section would amend section 214(b) of the Act to increase the authorized appropriations of the Rail Services Planning Office by $1 million to a total of $6 million. In letters dated May 12, 1975, the Director of RSPO asked Senator Vance Hartke, Chairman of the Subcommittee on Surface Transportation of the Senate Committee on Commerce, and Congressman Fred B. Rooney, Chairman of the Subcommittee on Commerce and Transportation of the House Committee on Interstate and Foreign Commerce, whether the Committees wished RSPO to seek comments from the public regarding the Final System Plan for the subcommittees' use. He explained that if this was done, and that if extensive "outreach" activity by the Office of Public Counsel was included, it was likely that RSPO would run short of funds by the end of December 1975, and would have to seek an increase in its authorization ceiling in order to complete its statutory responsibilities under the Act. The response from the Subcommittee Chairmen was that the RSPO should gather public comment on the Final System Plan, and make use of the service of the Office of Public Counsel in doing so. They indicated that legislation to increase the Office's authorized funding, if necessary, would be favorably considered. The Commission estimates that an increase of $1 million, to a total authorization of $6 million, will be adqeuate to meet the RSPO's needs, in the absence of any further amendment to the Act increasing its responsibilities.

By Mr. HARTKE (for himself and Mr. PEARSON) (by request):

S. 2520. A bill to amend the Regional Rail Reorganization Act of 1973 to facilitate implementation of the final system plan by broadening the purposes for which assistance is available under title IV, and for other purposes. Referred to the Committee on Commerce.

Mr. HARTKE. Mr. President, I introduce, by request, for appropriate reference, a bill to amend the Regional Rail Reorganization Act of 1973 to facilitate implementation of the final system plan by broadening the purposes for which assistance is available under title IV, and for other purposes, and I ask unanimous consent that the bill, the letter of transmittal and a section-by-section analysis be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2520

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SEC. 1. (a) This Act may be cited as the "Local Rail Service Amendments of 1975".

(b) Except as otherwise expressly provided, whenever in these amendments reference is made to a section or other provision, the reference shall be considered to be made to a section or other provision of the Regional Rail Reorganization Act of 1973, as amended, 45 U.S.C. 701, et seq.

OBLIGATIONS OF THE ASSOCIATION

SEC. 2. Section 210(b) is amended to read as follows—

"(b) MAXIMUM OBLIGATIONAL AUTHORITY.—The aggregate amount of obligations of the Association issued under this section which

may be outstanding at any one time may not exceed $25,000,000.".

LOANS

SEC. 3. Section 211(a) is amended by striking out "the National Railroad Passenger Corporation, and other railroads (including a railroad in reorganization which has been found to be reorganizable under section 77 of the Bankruptcy Act pursuant to section 207 (b) of this title) in the region, for purposes of assisting in the implementation of the final system plan; to a State or local or regional transportation authority pursuant to section 403 of this Act; and" and inserting in lieu thereof "and, prior to the effective date of the final system plan,".

EMERGENCY ASSISTANCE PENDING IMPLEMENTATION

SEC. 4. Section 213 is amended by inserting after subsection (b) the following new subsections—

"(c) PAYMENTS ON PREVIOUSLY DEFERRED INTERLINES.—A trustee of a railroad in reorganization may not make any payment on account of interline balances which were due and owing prior to the enactment of this Act but were deferred if such trustee has received financial assistance under this section (other than for improvements to properties designated in accordance with section 206(c)(1)(C) of this Act) within 90 days prior to the proposed payment, or if the reorganization court having jurisdiction finds that such trustee is likely to be in need of such assistance within 90 days after the proposed payment, any prior agreement or any order of any court notwithstanding.

"(d) NORTHEAST CORRIDOR IMPROVEMENTS.—After the conveyance of rail properties under the final system plan pursuant to section 303(b) of this Act, not to exceed $25,000,000 of the funds authorized under this section and appropriated in Public Law 94–6 entitled 'Joint Resolution making further urgent supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes' (89 Stat. 11) shall remain available to be utilized by the Secretary for the purpose of improving high-speed rail passenger service on the properties designated in the final system plan in accordance with section 206(c)(1)(C) of this Act.".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 5. Section 214(a) is amended by striking out "not to exceed $12,500,000,".

INTERIM AGREEMENTS BEFORE CONVEYANCE OF RAIL PROPERTIES

SEC. 6. Section 303 is amended as follows—

(a) Subsection (b)(3) is amended by striking out the period at the end thereof and by inserting in lieu thereof—", except that as long as an equipment obligee refuses to accept an installment payment due under his lease, equipment trust or conditional sale agreement from the Association pursuant to an agreement authorized by section 215(a)(3) of this Act or refuses to execute an agreement with the Association permitting the implementation of such an agreement, the obligee shall not be entitled to take possession of the rolling stock under the terms of his lease, equipment trust or conditional sale agreement unless it can establish that the acceptance of the payment from the Association or the execution of such an agreement with the Association would cause it to suffer a significant economic detriment in its capacity as an equipment obligee, any other provision of this Act notwithstanding.".

(b) Section (c)(1) is amended by striking out the last word of paragraph (B), by striking out the period at the end of paragraph (C) and by inserting in lieu thereof ": and", and by inserting after paragraph (C) the following new paragraph—

"(D) where an agreement pursuant to section 215(a)(3) of this Act requires such a determination, to what extent a payment by the Association of an installment which was payable by a railroad in reorganization under a purchase money obligation for rolling stock increased the value of the equity of the railroad in the underlying equipment.".

TERMINATION OF RAIL SERVICE

SEC. 7. Section 304 is amended as follows—

(a) Subsection (a) is amended by—

(1) inserting "(1)" after "DISCONTINUANCE.—";

(2) redesignating clauses (1) and (2) as clauses (i) and (ii), respectively;

(3) adding "in reorganization" after "rail service on rail properties of a railroad" in the clause redesignated as (i);

(4) inserting after "such notice" in paragraph (1)(B) "and subsequent to the conveyance of properties pursuant to section 303(b)(1) of this title"; and

(5) adding the following new paragraph at the end thereof—

"(2)(A) Rail service on rail properties in the region recommended in the final system plan for abandonment as part of an arrangement for joint use or operation of rail properties under section 206(g) of this Act or as part of a coordination project under section 206(c) of this Act may be discontinued if the Commission determines that the rail service is not compensatory and if—

"(i) prior to filing the application for the discontinuance, the petitioner and other railroads whose rail services or properties are involved in the arrangement for joint use or operation or the coordination project have entered into a binding agreement to carry out that arrangement or project;

"(ii) the application for the discontinuance is filed with the Commission no later than one year after the effective date of the final system plan; and

"(iii) the discontinuance is not precluded by the terms of the leases and agreements referred to in section 303(b)(2) of this title.

"(B) For the purposes of this paragraph, a service is to be deemed compensatory if the revenue attributable to the properties from the service in issue equals or exceeds the sum of the avoidable costs of providing the service on such properties plus a reasonable return on the value of such rail properties, as determined in accordance with the standards developed pursuant to section 205(d)(3) of this Act.

"(C) In considering requests for discontinuance pursuant to this paragraph, the Commission shall make its final determination no later than 120 days after the filing of the application. The applicant shall have the burden of proving that the service is not compensatory. If the Commission fails to make a determination within the prescribed time, the application shall be deemed to be granted.

"(D) The Commission may issue such rules, regulations, and procedures, pursuant to and consistent with this paragraph, as it deems necessary to exercise its powers and duties under this paragraph.".

(b) Subsection (b)(1) is amended by striking out the first sentence and by inserting the following in lieu thereof—

"Except as provided in subsections (c) and (f) of this section, rail properties over which rail service has been discontinued under subsection (a) of this section may not be abandoned sooner than (i) in the case of a discontinuance under subsection (a)(1), 120 days after the effective date of the discontinuance; and (ii) in the case of a discontinuance under subsection (a)(2), 90 days after the effective date of the discontinuance.".

(c) Subsection (c) is amended by—

(1) striking out subsection (c)(1) and inserting in lieu thereof—

"(1) in the case of service and properties referred to in subsections (a)(1) and (b)(1) of this section, after 2 years from the effective date of the final system plan or more than 2 years after the final payment of any rail service continuation subsidy is received, whichever is later; or"; and

(2) striking out the last sentence of subsection (c) and inserting in lieu thereof—

"If a rail service continuation subsidy is offered, the government or person offering the subsidy shall designate as the operator either a railroad which connects to the line to be abandoned or any responsible person (including a government entity) willing to operate rail service over such properties pursuant to an operating agreement between the designated entity and the government or person offering the subsidy. A designated railroad may refuse to enter into such an operating agreement only if the agreement would substantially impair the ability of the railroad to sever adequately its own patrons or to meet its outstanding common carrier obligations. The operating agreement shall provide that the designated entity will operate rail service over such rail properties and receive the difference between the revenue attributable to such properties and the avoidable costs of providing service on such rail properties together with a management fee determined by the Secretary and the trustee of any railroad in reorganization shall receive a reasonable rate of return on the value of any rail properties for which a rail service is operated under such subsidy.".

(d) Subsection (d) is amended by striking out "a purchase offer" and inserting in lieu thereof "an offer to purchase or an offer of a rail service continuation subsidy,".

FINDINGS AND PURPOSE OF TITLE IV

SEC. 8. Section 401(b) is amended by striking out everything after "Secretary" and by inserting in lieu there—"to administer a program of financial aid for the continuation of rail service, the acquisition or modernization of rail properties, including the preservation of rights-of-way for future rail service, and the construction or improvement of certain transportation facilities necessary to accommodate the transportation of freight previously moved by rail service not designated to be continued in the final system plan.".

LOCAL RAIL GRANTS

SEC. 9. Section 402 is amended as follows—

(a) The first sentence of subsection (a) is amended to read as follows—

"The Secretary is authorized to provide financial assistance in accordance with this section to assist in the provision of rail service continuation subsidies, the acquisition or modernization of rail properties, including the preservation of rights-of-way for future rail service, and the construction or improvement of facilities necessary to accommodate the transportation of freight previously moved by rail service not designated to be continued in the final system plan.".

(b) The second sentence of subsection (a) is amended by striking out "of a rail service continuation subsidy" and by inserting in lieu thereof—"of the cost of the program for which Federal assistance is provided."

(c) Subsection (b)(1) is amended by striking out the words "rail service continuation subsidies" in the first sentence and by inserting in lieu thereof—"financial assistance."

(d) Subsection (b)(1) is amended by inserting the following as the last sentence—

"However, no more than 50 per centum of the funds which a State receives under this paragraph may be used for the purposes of section 402(c)(4) of this title."

(e) Subsection (b)(2) is amended to read as follows—

"(2) The Secretary may provide discretionary financial assistance to a State or a local or regional transportation authority in the region for the purposes of this section from the sums remaining after the allocation

of funds pursuant to paragraph (1) of this subsection."

(f) Subsection (c)(1) is amended by striking out "rail service continuation subsidies" and by inserting in lieu thereof—"financial assistance."

(g) Subsection (c)(1)(A) is amended by striking out "subsidies" and by inserting in lieu thereof—"financial assistance."

(h) Subsection (c)(2) is amended by redesignating paragraphs (B) and (C) as paragraphs (C) and (D), respectively, and by inserting the following new paragraph (B)—

"(B) those rail services of profitable railroads in the region referred to in section 304(a)(2) of this Act;"

(i) Subsection (c) is amended by adding the following new paragraphs—

"(3) Rail freight properties eligible to be acquired or modernized with financial assistance pursuant to subsection (b) of this section are those used for services eligible for rail service continuation subsidies pursuant to paragraph (2) of this subsection, including those identified in the State plan referred to in subsection (c)(1)(A) of this section as having potential for future use for rail freight service.

"(4) Facilities necessary to accommodate the transportation of freight previously moved by rail service not designated to be continued in the final system plan which are eligible for construction or improvement with financial assistance pursuant to subsection (b) of this section are those facilities in the region, including intermodal terminals and highways or bridges, necessary for the provision of freight service which will no longer be available because of the discontinuance of rail freight service under section 304 of this Act or other lawful authority. However, funds provided under this paragraph may not be used to pay the State share of highway projects under title 23, United States Code.

"(5) Rail properties to be used for intercity rail passenger service eligible to be acquired with financial assistance pursuant to subsection (b) of this section are those pertaining to lines in the region (other than rail properties designated in accordance with section 206(c)(1)(C) of this Act) which will permit the National Railroad Passenger Corporation to serve more efficiently routes in operation as of November 1, 1975, which provide intercity rail passenger service designated by the Secretary under title II of the Rail Passenger Service Act, as amended (45 U.S.C. 201, *et seq.*) or routes designated for service under section 403(c) of the Rail Passenger Service Act, as amended (45 U.S.C. 563(c)). Financial assistance to acquire rail properties defined in this paragraph is limited to funds provided under subsection (b)(2) of this section or under section 403 of this title.".

(j) Subsection (d) is amended by striking out everything after "with respect to" and by inserting in lieu thereof—"the provision of financial assistance under this title".

(k) Subsection (f) is amended by adding at the end thereof— "However, any rail service for which a State or a local or regional transportation authority receives assistance for the acquisition or modernization of rail freight properties under subsection (c)(3) of this section is not eligible for a rail service continuation subsidy for more than 6 months after the acquisition or the commencement of the modernization, whichever occurs first.".

(l) Subsection (h) is amended by striking out "rail service continuation subsidies" and inserting in lieu thereof—"financial assistance".

SEC. 10. Section 403 is amended as follows—

(a) Subsection (a) is amended by striking out the words "to direct the Association"; by striking out the colon following "the purchase price" and by inserting in lieu thereof a period; and by striking out the words "*Provided, however,* That any rail service for which a State agency or local or regional transportation authority receives such loan is no longer eligible for a rail service continuation subsidy pursuant to section 402 of this title.".

(b) Subsection (b) is amended by striking out the words "to direct the Association to provide additional assistance" and by inserting in lieu thereof "provide loans"; and by striking out the second and third sentences.

(c) Section 403 is amended by inserting after subsection (b) the following new subsections—

"(c) TERM.—Any rail service for which a State or a local or regional transportation authority receives a loan for the acquisition or modernization of rail freight properties under this section is not eligible for a rail service continuation subsidy for more than 6 months after the acquisition or the commencement of the modernization, whichever occurs first.

"(d) AUTHORIZATION FOR APPROPRIATION.—There are authorized to be appropriated to the Secretary, to remain available until expended, $25,000,000 for the purposes of carrying out this section.".

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., October 2, 1975.

Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Transmitted herewith is a bill "To amend the Regional Rail Reorganization Act of 1973 to facilitate implementation of the final system plan by broadening the purposes for which assistance is available under title IV, and for other purposes."

In drafting the Regional Rail Reorganization Act of 1973 (Act), the 93d Congress provided for the restructuring of the services and properties of railroads in the Northeast and Midwest so as to achieve adequate and efficient rail service in that region. Title IV of the Act also established a Federal grant program under which rail service not designated for retention could continue to be provided if a State or other entity provided matching funds to help finance continued operations.

In enacting title IV, the Congress stated as two of its findings that "[a]bandonment, termination, or substantial reduction of rail service in any locality will adversely affect the Nation's long-term and immediate goals with respect to energy conservation and environmental protection" and "[u]nder certain circumstances the cost to the taxpayer of rail service continuation subsidies would be less than the cost of abandonment of rail service in terms of lost jobs, energy shortages, and degradation of the environment." Accordingly, under title IV, those rail services which would be discontinued as a result of the final system plan may become eligible for both operating subsidies to maintain service, allocated by formula to the 17 States in the region, and acquisition or modernization assistance in the form of grants from the Secretary's discretionary funds or loans. The program provides 2-year interim assistance, with a State or local entity share of 30 percent and a Federal contribution of 70 percent, designed to minimize disruptions while States and communities in the region develop longer term solutions to their light-density line problems. The Act authorizes $90 million for each of 2 years to meet the Federal share of the program cost. If States or local communities elect not to apply for Federal assistance provided for under the program, the Act permits discontinuance of service and abandonment of the line.

The light-density lines which title IV was designed to assist are a significant part of the total economic problem of railroads in the region. Of the 10,692 miles of such track in active service which were studied by the United States Railway Association (USRA), 5,757 were excluded from the restructured system. These lines, which carry only 2.2 percent of the traffic in the region, are characterized by overlapping service, deteriorated physical condition, operating deficits and high upgrading costs. Continuation of service is costly and uneconomic. In addition, another 1,191 miles of track are presently out of service. To the States and local communities involved, however, such service may be essential, especially during the transition to a reorganized rail system in the region.

In administering the Act, the Department has become convinced that to achieve the most efficient solution to light-density line problems and to promote use of the most efficient transportation mode in areas being served by unprofitable light-density lines, greater flexibility should be permitted to States in the use of Federal assistance. The Department has also become aware that certain sections of the Act may need clarification.

To increase State flexibility, to improve the operation of the title IV program, and to clarify certain sections of the Act, the proposed amendments would accomplish the following:

1. Broaden the purposes for which Federal entitlement grants can be made to include acquisition or modernization of rail properties, including acquisition and preservation of rights-of-way that cannot be supported for service continuation now but which have potential for future rail freight use.

2. Broaden the purposes for which entitlement and discretionary grants can be made to include construction and improvement of certain transportation facilities, such as bridge and highway improvements and terminals for the transfer of freight from rail to truck, necessary to accommodate the transportation of freight which previously moved by rail service not designated to be continued in the final system plan. This will aid States and communities that find alternate transportation modes more efficient or appropriate than continuing rail service.

3. Permit expedited abandonment on noncompensatory rail service on certain properties of railroads not in reorganization which are recommended for abandonment as part of an arrangement for joint use or operation of rail facilities under section 206(g) or part of a coordination project under section 206(c) of the Act.

4. Make eligible for State acquisition with discretionary grants or loans a limited number of rail passenger service facilities, outside the Northeast Corridor, recommended for discontinuance of freight service in the final system plan but needed by Amtrak for the provision of intercity rail passenger service.

5. Permit the Secretary of Transportation to administer loans directly, rather than through USRA, for acquisition or modernization of rail properties eligible for subsidy, and authorize $25 million for such loans.

6. Permit simultaneous rail service continuation subsidies and assistance to acquire or modernize the same line, provided that the subsidy terminates 6 months after acquisition or modernization first begins. Simultaneous assistance for acquisition, modernization and continuation will enable a State to cover operating deficits while initial, necessary improvements are commenced.

7. Require that the offeror of a rail service continuation subsidy designate as the operator of the service either a willing entity or a connecting railroad, provide for a reasonable management fee for the operator, and permit the designated operator to refuse only if its own service would be substantially impaired.

8. Conform eligibility criteria and matching share ratios for all funds under the broadened program to those in use for rail service continuation subsidies under the Act.

9. Ensure that emergency Federal assist-

ance to maintain essential service is not used to pay old obligations of railroads in reorganization by prohibiting trustees of such railroads from making deferred interline payments when the railroad has been receiving, or is soon to receive, emergency Federal assistance.

10. Permit emergency Federal assistance for interim improvements to the Northeast Corridor high-speed rail passenger system to remain available for that purpose after the final system becomes effective.

11. Make clear that the Act's preservation of rights of equipment obligees under section 77 of the Bankruptcy Act does not permit them to refuse to accept installment payments on equipment obligations of railroads in reorganization tendered by USRA pursuant to agreements under section 215 of the Act when acceptance of such payments would not result in any significant economic harm to the obligees.

12. Reduce the amount of obligations which USRA may issue (from $1.5 billion to $25 million) to reflect the establishment of a new, separate method of financing the Consolidated Rail Corporation (ConRail) proposed by USRA in the final system plan, the transfer of authority to make acquisition and modernization loans from USRA to the Secretary of Transportation, a forthcoming proposal to fund Northeast Corridor programs separately, and a desire to provide assistance to railroads other than ConRail through the railroad revitalization legislation now pending before the Congress.

These amendments will contribute to an improved program designed to attain the objectives set by the Congress in enacting titles III and IV of the Act. They are being submitted by the Department in conjunction with a separate bill submitted by the United States Railway Association (USRA) to amend the Act to provide for the purchase of securities of ConRail and to make other changes necessary to implement the final system plan. Together, the bills would amend the Act so as to ensure smooth transition to a restructured rail system in the region.

The Department's bill differs from that of USRA in the extent to which it would reduce the amount of obligations USRA can issue. The Department would reduce it from $1.5 billion to $25 million; USRA would reduce it to $500 million. The amounts differ because USRA's proposal in this area was limited to implementing the recommendations of the final system plan by establishing a new method of financing ConRail, while the Department's proposal reflects transfer of USRA's authority to make acquisition and modernization loans to the Secretary, a forthcoming proposal to fund Northeast Corridor programs separately, and a desire to provide assistance for railroads other than ConRail through the Railroad Revitalization Act now pending before the Congress as H.R. 7681 and S. 1876. With the exception of this difference, the measures are compatible. We urge prompt enactment.

The Office of Management and Budget has advised that the enactment of this proposed legislation would be in accord with the program of the President.

Sincerely,

WILLIAM T. COLEMAN, Jr.

SECTION-BY-SECTION ANALYSIS

SHORT TITLE

Section 1. This section cites the proposed act as the "Local Rail Service Amendments of 1975." The bill principally amends titles III and IV of the Regional Rail Reorganization Act of 1973, as amended (Act).

OBLIGATIONS OF THE ASSOCIATION

Section 2. This section amends section 210 (b) by reducing the amount of United States Railway Association (USRA) obligations which may be issued under this section from $1.5 billion to $25 million to reflect the establishment of a new, separate method of financing the Consolidated Rail Corporation (ConRail) proposed by USRA in the final system plan, the transfer of authority to make loans under section 403 from USRA to the Secretary of Transportation (provided for in section 10 of the bill), a forthcoming proposal to fund programs for the Northeast Corridor separately, and a desire to fund assistance to railroads other than ConRail through the Railroad Revitalization Act, legislation now pending before the Congress (H.R. 7681, S. 1876).

LOANS

Section 3. This section amends section 211 to remove from USDA the authority to make loans to the National Railroad Passenger Corporation (AMTRAK) or to other railroads in the region to assist in implementing the final system plan. This reflects a forthcoming proposal to fund AMTRAK assistance and programs for the Northeast Corridor separately, and a desire to fund assistance to railroads in the region other than ConRail through the Railroad Revitalization Act, now pending before the Congress. The section also removes from USRA authority to make loans for acquisition or modernization of railroads under section 403 of the Act. Section 10 of this bill makes a corresponding change to section 403 to authorize the Secretary to make such loans directly.

AUTHORIZATION FOR APPROPRIATION

Section 4. This section amends section 214 to authorize the appropriation to the Secretary of such sums as are necessary to meet the administrative expenses associated with his responsibility under the Act, including administrative functions associated with the local rail service program contained in title IV.

EMERGENCY ASSISTANCE PENDING IMPLEMENTATION

Section 5. This section amends section 213, which provides for emergency assistance to railroads in reorganization to enable them to continue essential services pending implementation of the final system plan.

The first addition prohibits trustees of such railroads from making any previously deferred interline payments when the railroad has received or is likely to need emergency assistance within 90 days before or after the proposed payment. There has been litigation over whether a railroad which is receiving section 213 assistance may make installment payments on account for long deferred interline balances, most of which are pre-bankruptcy. When such payments are allowed, and some reorganization courts have permitted them, the emergency assistance, in effect, is used to pay old obligations of the railroad. The paragraph will clarify and ensure that emergency assistance under the section can be used only to maintain essential services and not to pay obligations of the railroad which have been deferred for many years.

The second new paragraph enables the Secretary to use up to $25 million of any emergency assistance not spent by the time the final system plan becomes effective for improvements to the Northeast Corridor for high-speed rail passenger service. This will permit that portion of the $25 million in emergency assistance which had been specifically apportioned for interim Northeast Corridor improvements but has not yet been obligated to remain available for the designated improvements after the plan takes effect.

INTERIM AGREEMENTS BEFORE CONVEYANCE OF RAIL PROPERTIES

Section 6(a). This subsection amends section 303(b)(3). Section 215(a)(3) of the Act authorizes the Secretary, with funds provided by USRA, to purchase interests in purchase money obligations for rolling stock of railroads in reorganization. In some cases where reorganization courts have authorized such purchases, the equipment obligees have refused to permit them, arguing that the preservation in section 303(b)(3) of the Act of their rights under section 77(j) of the Bankruptcy Act gives them the absolute right to veto such purchases and repossess the equipment. The objecting equipment obligees are also creditors or indenture trustees for bondholders of the railroads in reorganization. Although their interests as equipment obligees would not suffer from accepting payment under section 215 agreements, they believe their interests as creditors of the estate would be better served if the railroads' cash needs are met by section 213 emergency assistance grants, rather than assistance provided under section 215 agreements. This amendment will make it clear that section 303(b)(3) does not permit an equipment obligee to reject payment under a section 215 agreement and at the same time repossess the equipment unless it can prove that to agree to the USRA purchase would cause it a significant economic detriment in its capacity as an equipment obligee. The phrase "any other provision of this Act notwithstanding" will make clear that this amendment also qualifies the preservation of section 77(j) rights contained in section 211 of the Act.

Section 6(b). The question of the extent of the interest which can be acquired by USRA in a purchase money obligation for rolling stock under a section 215 agreement has been the subject of litigation and is as yet unresolved. This subsection amends section 303(c)(1) to give the special court exclusive jurisdiction to determine the extent to which USRA's installment payments under such an agreement increase the railroad's equity in the underlying equipment, if the ultimate outcome of the pending litigation makes it necessary to determine that question. Because the question is so intimately related to the valuation of the rolling stock over which the court already has exclusive jurisdiction, it makes sense to have the special court decide it.

TERMINATION OF RAIL SERVICE

Section 7(a). This subsection amends section 304 to establish expedited procedures for the discontinuance by railroads in the region of service operated on rail properties, the abandonment of which is specified by the final system plan as part of an arrangement for joint use or operation of rail properties under section 206(g) or as part of a coordination project under section 206(c) of the Act. Any railroad desirous of taking advantage of this new provision would be required to file its application with the Interstate Commerce Commission within one year after the effective date of the final system plan.

In addition, it is required that, prior to the application for discontinuance, the applicant and other railroads whose rail services or properties are involved in the coordination project or the arrangement for joint use or operation first enter into a binding agreement to carry out the project or arrangement. The Commission would be required to grant the application if it determines that the rail service is not compensatory. A service would be compensatory if revenue attributable to the properties from the service in issue equals or exceeds the sum of the avoidable costs of providing the service on such properties plus a reasonable return on the value of such rail properties as determined in accordance with the standards developed pursuant to section 205(d)(3) of the Act. The Commission would be required to make its final determination no later than 120 days after the filing of an application. If it failed to make a determination in that time, the application would be deemed to be granted. The Commission would be empowered to issue regulations and procedures consistent with this amendment as it deems necessary to carry out its duties under this provision.

The subsection also amends section 304(a)(1)(i) to make clear that it refers to railroads in reorganization. And it amends section 304(a)(1)(A) to provide that a railroad seeking to discontinue service because substantially all of its properties are to be transferred pursuant to the final system plan may not discontinue service until either 60 days after notice is given or after the date of conveyance of the properties, whichever is later. This will prevent the possibility of discontinuance after the plan becomes effective but prior to the actual conveyance of properties.

Section 7(b). This subsection amends section 304(b)(1) as it relates to the abandonment of rail properties over which rail service is discontinued under the proposed new procedure. Such abandonments could not occur sooner than 90 days after the discontinuance of service.

Section 7(c). This subsection amends section 304(c): by adding a requirement that the offeror of a rail service continuation subsidy designate as the operator of the rail service either a railroad connecting to the line to be abandoned or a responsible, willing entity; by providing that the designated operator may refuse to enter into an operating agreement with the subsidy offeror only if the agreement would substantially impair the ability of the designated railroad adequately to service its own patrons or to meet its common carrier responsibilities; and by adding a reasonable management fee determined by the Secretary to the amount the operator receives for operating the rail service. This will ensure that rail service deemed to be essential by a government entity or person offering a continuation subsidy cannot be discontinued solely because a willing operator cannot be found, unless the designated operator's own service or its ability to meet its common carrier responsibilities would be substantially impaired by the operating agreement. It also ensures that, in addition to the costs attributable to providing the service, the designated operator will receive a reasonable management fee.

Section 7(d). This subsection amends section 304(d) to require that, in addition to making reports on the physical condition of the property, revenue and traffic data, etc. available to those making purchase offers, railroads in reorganization or profitable lines which give notice to discontinue service shall also promptly make available such reports to those offering rail service continuation subsidies. By extending the requirement to offers of subsidy, the amendment ensures that the offeror will have information necessary to negotiate the subsidy amount regardless of whether or not purchase is contemplated.

FINDINGS AND PURPOSE OF TITLE IV

Section 8. This section amends the statement of Congressional purpose in section 401(b) to reflect the proposed expansion of the scope of the section 402 program. The proposed expansion will increase State flexibility in solving transportation problems resulting from implementation of the final system plan. The Congressional intent will be to authorize the Secretary to maintain not only a subsidy program to continue rail service but also a program of broader financial aid to enable States to acquire and modernize rail properties and to construct and improve certain alternate mode transportation facilities necessary for the movement of freight previously moved by rail service not designated to be continued in USRA's final system plan.

The amendments give States and transportation agencies additional flexibility in the use of Federal funds by permitting simultaneous subsidy, acquisition and modernization of eligible rail services, land banking, and construction or improvement of other facilities where they are more efficient and appropriate alternatives to continued rail service. Broadening options will enable a State to tailor use of funds to its particular needs and to decide whether to acquire and modernize lines in addition to subsidizing them.

LOCAL RAIL GRANT AUTHORIZATION

Section 9(a). This subsection amends section 402 to authorize an expanded Federal grant program, not only for rail service continuation but also for acquisition or modernization of rail properties (including the preservation of rights-of-way, or rail banking, for future rail service) and for construction or improvement of alternate mode facilities (such as intermodal freight terminals, highways and bridges) required for the movement of freight which previously moved by rail service not designated to be continued in the final system plan. Rail banking will enable States to acquire and reserve lines that cannot be supported for service continuation now but which have potential for future use.

Section 9(b) and (c). These subsections make conforming amendments to sections 42(a) and (b)(1) to reflect the broadening of the scope of the section 402 program explained above.

Section 9(d). This section amends section 402(b)(1) by limiting to 50 percent of entitlement funds the amount a State can use for construction or improvement of facilities (such as intermodal terminals, highways and bridges) necessary to accommodate the transportation of freight previously moved by rail service not designated to be continued in the final system plan. The limitation will ensure that funds remain available for rail service continuation subsidies and it reflects the intent that funds used under this section for highway and bridge construction merely supplement those available under Federal and State highway programs.

Section 9(e). This subsection makes an editorial amendment to section 402(b)(2).

Section 9(f). This subsection amends section 402(c)(1), which defines State eligibility, to conform it to the broadened subsidy program.

Section 9(g). This subsection amends section 402(c)(1)(A) to require that the State plan provide for equitable distribution of all assistance under the broadened program, not only rail service continuation subsidies.

Section 9(h). This subsection amends section 402(c)(2) to expand those rail freight services eligible for rail service continuation subsidies and those properties eligible for grants or loans for acquisition or modernization to include those of railroads not in reorganization but eligible for expedited abandonment under an amendment to section 304(a) proposed in section 7 of this bill. Those properties eligible for expedited abandonment are those recommended in the final system plan for abandonment as part of an arrangement for joint use or operation of rail facilities, under section 206(g), or as part of a coordination project, under section 206(c) of the Act.

Section 9(i). This subsection amends section 402(c) by adding three paragraphs defining eligibility for the new types of financial assistance.

Rail freight properties eligible to be acquired or modernized are those used for services eligible for rail service continuation subsidies, including properties designated in an approved State rail plan as having potential for future rail freight use.

Facilities necessary to accommodate the transportation of freight previously moved by rail service not designated to be continued in the final system plan which are eligible for construction or improvement include intermodal terminals, highways and bridges. Funds for such projects may not be used to pay the State share of Federal-aid highway projects and funds available for highway improvements are limited to discretionary grants and up to 50 percent of available entitlement funds.

Rail properties to be used for intercity rail passenger service eligible to be acquired are those (not including facilities purchased, acquired or leased by Amtrak from ConRail) which will permit Amtrak to more efficiently serve passenger service designated under the Rail Passenger Service Act. This permits State purchase of lines outside the Northeast Corridor over which Amtrak operates basic system or experimental passenger service and which are recommended for discontinuance of freight service in the final system plan. Funds for such projects are available through discretionary grants or loans.

Section 9(j). This subsection amends section 402(d), which authorizes the Secretary to issue regulations governing the program, so that it applies to the broadened assistance program, not just rail service continuation subsidies.

Section 9(k). This subsection amends section 402(f), to allow both subsidy and acquisition of the same rail line. It permits rail service continuation subsidies for up to a 6-month period after rail freight properties are acquired or modernization has commenced using Federal funds available under the broadened section 402 program. A 6-month subsidy will enable a State to cover operating deficits while initial, necessary improvements are commenced and will facilitate the transition to public ownership of bankrupt rail lines.

Section 9(l). This subsection amends section 402(h), which authorizes the Secretary to withhold funds from States ineligible for rail service continuation subsidies, to also authorize withholding from States ineligible for the new assistance programs.

ACQUISITION AND MODERNIZATION LOANS

Sections 10(a) and (b). These subsections amend sections 403 (a) and (b) to permit the Secretary to provide acquisition and modernization loans directly, rather than through the United States Railway Association (USRA), to States or local or regional transportation authorities. Centralizing the loan authority of the Secretary will eliminate duplication entailed when both the Secretary and USRA must determine financial qualifications.

Subsection (b) also eliminates the Secretary's authority under the present Act to provide loan guarantees for modernization purposes to conform it to section 403(a) and to reflect a preference for assistance in the form of loans.

Subsection (a) also deletes the Act's present prohibition against any rail service continuation subsidy for rail services receiving a Federal acquisition or modernization loan. This is consistent with proposed amendments to sections 402(f) and 403 of the Act (in subsections 9(k) and 10(c) of this bill) which authorize such subsidies for a 6-month period following acquisition or the commencement of modernization with Federal loans or grants, whichever occurs first.

Section 10(c). This subsection amends section 403 to permit rail service continuation subsidies to continue for 6 months after a State or local or regional transportation authority acquires or commences modernization of rail properties with Federal loan assistance, whichever occurs first. This provision is consistent with subsection 9(k) of the bill which permits continuation subsidies for up to 6 months where properties are acquired or modernized with Federal grants. The change recognizes that it may be desirable to provide some rail service continuation assistance to cover operating deficits during the time initial improvements are being made and to facilitate transition to public ownership, but it limits the duration of such subsidies to a reasonable period.

The subsection also adds a necessary para-

graph authorizing a $25 million appropriation to the Secretry of Transportation to enable the Department to fund the acquisition and modernization loans presently being made by USRA.

INFLATIONARY IMPACT STATEMENT—PROPOSED AMENDMENTS TO REGIONAL RAIL REORGANIZATION ACT OF 1973

I certify that, in accordance with Executive Order 11821, dated November 27, 1974, and Departmental implementing instructions, an Inflationary Impact Statement is not required for the proposed amendments to the Regional Rail Reorganization Act of 1973.

ASAPH H. HALL,
Administrator.

By Mr. BELLMON (for himself, Mr. DOLE, Mr. HUDDLESTON, and Mr. CURTIS):

S. 2521. A bill to amend the Consolidated Farm and Rural Development Act. Referred to the Committee on Agriculture and Forestry.

Mr. BELLMON. Mr. President, on behalf of Senators HUDDLESTON, CURTIS, and myself, I am today introducing legislation to make several changes in the Farmers Home Administration real estate and operating loan programs.

These programs have served American agriculture well but are becoming unrealistic in terms of the cost of land, farm operating expenses, and the Federal budget.

This bill makes two changes in the real estate loan program:

First. It establishes a new authority to assist farmers, particularly young farmers, who do not have cash for a downpayment on farmland. This program would allow Farmers Home to make or insure loans to applicants who meet the current loan criteria for up to 25 percent or $50,000, whichever is less, of the value of the farm. This would be particularly helpful in areas where land values exceed the current FHA lending limits and where sellers or mortgage lenders are willing to take small downpayments; and

Second. It replaces the current 5-percent interest rate—which is becoming a costly item in the Federal budget—with an interest rate determined by the cost of money to the Treasury. This is combined with a new provision which allows FHA to set repayment terms which allow the borrower time to establish an economically viable unit. For example, this would allow the borrower to make smaller payments during the earlier years and then make larger payments later as he becomes better established.

The bill makes one change in the operating loan program. It increases the maximum loan per borrower from $50,000 to $100,000. In view of the doubling, tripling, and even quadrupling of farm input costs the current $50,000 limit is of assistance to very few farmers.

Probably the most important feature of the bill, Mr. President, are the provisions that exempt the real estate, operating, and business loans that are guaranteed by the Government but funded by private lenders from inclusion in the budget. This provision is similar to that in Public Law 93-32, Rural Electrification Act Amendments of 1973, which not only excludes REA guaranteed but insured loans as well from the budget.

Mr. President, earlier this year I introduced S. 1746 which doubled the current Farmers Home Administration real estate and operating loan limits. It was the consensus of the members of the Committee on Agriculture and Forestry that with the current practice of limiting the aggregate amount loaned under these programs each year that S. 1746 would reduce the number of farmers who could receive FHA loans. I believe that this bill solves that problem and I hope my colleagues on the committee will join me in reporting this bill expeditiously.

Mr. President, I ask that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2551

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Consolidated Farm and Rural Development Act is amended—

(1) By striking the first sentence of section 305 and inserting the following in lieu thereof:

"SEC. 305. (a) The Secretary shall make or insure no loan under sections 302, 303, or 304 of this title which would cause (a) the unpaid indebtedness against the farm or other security at the time the loan is made to exceed $225,000 or the value of the farm or other security or (b) the loans under such sections to any one borrower to exceed $100,000. The limits in the foregoing sentence shall not apply when a loan is made or insured for the downpayment on a farm or other security for which the downpayment does not exceed the lesser of 25 per centum of the value of the farm or other security, or $50,000."

(2) By adding the following to section 305:

"(b) Loans guaranteed by the Secretary under sections 302, 303, and 304 shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States."

(3) By striking all of section 307(a) before the numbered paragraphs and substituting in lieu thereof the following:

"(a) The period for repayment of loans under this subtitle shall not exceed 40 years. In the case of loans under sections 302, 303, and 304 the Secretary may provide for repayment on such terms as he determines necessary to allow the borrower to establish an economically viable unit. The Secretary shall from time to time establish interest rates at which loans will be made or insured under this subtitle in accordance with paragraph (1) of this subsection; except that loans to public bodies or nonprofit associations (including Indian tribes on Federal and State reservations and other federally recognized tribal groups) for community facilities, or loans of a type authorized by section 306(a)(1) prior to its amendment by the Rural Development Act of 1972 shall not be made or insured at interest rate in excess of 5 per centum per annum."

(4) By striking all of section 313 and inserting the following in lieu thereof:

"SEC. 313. The Secretary shall make nor insure no loan under this subtitle (1) which would cause the total principal indebtedness outstanding at any one time for loans made under this subtitle and under section 21 of the Bankhead-Jones Farm Tenant Act, as amended, to exceed $100,000 or (2) for the purchase or lease of land other than for cash rent, or for carrying on any program of land leasing or land purchasing."

(5) By adding the following sentence at the end of section 317:

"Loans guaranteed under section 310B or 312 shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States."

By Mr. TAFT (for himself, Mr. HUGH SCOTT, and Mr. SCHWEIKER):

S. 2522. A bill to amend the Securities Exchange Act of 1934 to provide for the disclosure of certain information relating to persons intending to file tender offers and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. TAFT. Mr. President, today, I am introducing the Full Disclosure Tender Act of 1975.

Its purpose might best be described by a paraphrase of its title, for it might have been called the Fair Warning Tender Act of 1975.

This bill is designed to protect the publicly traded corporations of the United States, their shareholders, employees, and host communities, from the fear and confusion which all too often follow upon the announcement of an imminent takeover attempt. It in no way discriminates against foreign corporations. It puts domestic and foreign offers under the same rules. They are not today.

This is a disclosure bill. It provides the two things most necessary to arrive at a sensible decision—information and time.

The information required by this bill, of all parties making tender offers, is largely supplied under current statute by firms listed on the major exchanges. The bill provides that any person or firm, foreign or domestic, desiring to make a tender offer, and who has not yet registered with the Securities and Exchange Commission, pursuant to section 12 of the Securities Exchange Act of 1934, shall first register with the Commission and provide the information required under that section. This registration must be completed prior to the issue of the tender offer. The registration period will provide time for the financial community to become familiar with what may have been hitherto unknown facts about the new registrant. In other words, this will provide a get acquainted period of about 60 days.

Furthermore, the bill provides that the making of a tender offer be announced 60 days in advance. At the time of the announcement, the tendering person or firm shall provide that information currently required by the Commission only after a tender offer is completed, pursuant to section 13 of the 1934 act. The information shall be given to the Commission, which in turn shall notify the affected firm.

What does all this mean?

It means that:

First. Firms will not be first notified of a tender offer by a broker calling to say

that their shares have been suspended from trading by the Stock Exchange.

Second. Firms will have time to study the tendering firm and the value of the offer being made in order to better advise their shareholders.

Third. Shareholders will not be given a scant week to decide whether they want to sell or hold, all the while subject to the uncertainty of holding a stock suspended from trading. They shall have time to examine the offer, and the recommendations of management.

Fourth. Labor will have time to look up the history of labor-management relations of the tendering firm, and to contribute its opinion.

Fifth. The citizens and civic leaders of the host communities will likewise have a chance to express a more informed opinion of the effects of the acquisition than is possible under current practices.

In this way, will the proceedings be forced to be open and above board, so that everyone will pay and receive fair value for the property being sought. In this way all affected parties will have a chance to speak out on a matter of great concern to them.

This bill is not designed to discriminate against privately held or overseas firms. I do not favor a closed door policy on foreign or new investment. We need such investment. However, investment should be done in the light of day, not in the dark of night. Perhaps this bill could have been called the tender in the Sunshine Act.

I ask that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2522

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That section 12 of the Securities Exchange Act of 1934 is amended by adding at the end thereof the following new subsection:

"(n) No person shall make a tender offer with respect to any securities registered under this section, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 12(g)(2)(G) of this title, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1949, without having filed with the Commission such information and documents as the Commission may specify comparable to those which are required in an application to register a security pursuant to this section. Such registration statement shall become effective 60 days after the filing with the Commission, except as otherwise ordered by the Commission. Until such registration statement becomes effective it shall not be deemed filed for the purposes of section 14(d) of this title."

SEC. 2. Section 13(a) of the Securities Exchange Act of 1934 is amended by inserting after the words "every issuer of a security" appearing in the first sentence thereof, the following new phrase, ", or other person,".

SEC. 3. (a) Section 14(d)(1) of the Securities Exchange Act of 1934 is amended by inserting after the words, "has filed with the Commission", the following new phrase, ", at least 60 days prior to such offer or request or invitation,".

(b) Such section is further amended by adding after the second sentence the following new sentence: "A copy of such statement shall be sent by the Commission, within five days of its receipt of such statement, to the officers of the issuer of the shares which are the subject of the tender offer.".

SEC. 4. The amendments made by this Act apply to any tender offer made on or after September 1, 1975, as to any transaction not consummated prior to the effective date of this Act.

By Mr. CRANSTON:

S. 2523. A bill to amend the Emergency Loan Guarantee Act to permit the Emergency Loan Guarantee Board to guarantee the bonds of States and municipalities. Referred to the Committee on Banking, Housing and Urban Affairs.

A FEDERAL GUARANTEE PROGRAM FOR THE FISCAL EMERGENCIES OF STATES AND MUNICIPALITIES

Mr. CRANSTON. Mr. President, I am introducing today a companion measure to legislation already introduced in the House of Representatives by my fellow Californian Representative THOMAS REES which will amend the Emergency Loan Guarantee Act to permit the Emergency Loan Guarantee Board to guarantee the bonds of States and municipalities under strict fiscal controls when those governments face financial disaster.

The legislation which I am introducing only permits the guarantee of bonds issued by State and city governments. It does not authorize the Federal Treasury to loan out money to hard-pressed cities.

The bill does not give anyone a handout. Bonds issued under the guarantee will be subject to Federal taxation. This is absolutely not another tax loophole backed up by the full faith and credit of the United States of America.

The bill requires the State or city granted a guarantee to give evidence—measurable and real—that its budget will be balanced by real revenues, not more borrowings, within 3 years—and this budget must be maintained as balanced for the life of the guarantee.

The bill gives the Loan Guarantee Board strong powers to serve on the appropriate State and local government bodies having the responsibility for revenue collections and expenditures. Indeed, this is a major assertion of Federal authority into local affairs. But, it is an assertion required by the extreme circumstances which confront a municipality seeking the full faith and credit of its sister cities and States in the Union to come to its aid.

The bill gives the Emergency Loan Guarantee Board the powers necessary to ascertain that the State and local governments seeking a loan guarantee will meet the conditions of the guarantee agreement.

Finally, this bill builds on a proven mechanism—the Emergency Loan Guarantee Board—which through its profit-making operations in managing the Lockheed loan guarantee will have earned $22.4 million for the Federal Treasury at the end of fiscal year 1976.

I am pleased to join with my fellow Californian in our joint effort to provide assistance to New York City. Although California's cities are not yet on the brink of financial disaster, a deepening slide in the economy, a natural disaster of unforeseen proportions, could throw our State and municipalities into serious financial straits. Californians have seen their share of hard times and our fellow citizens have helped generously when we were in need. I think it fitting, therefore, that we recognize that the problems of one State, one city, are the problems of all. We can only solve them by sharing the load equitably. Californians, too, will benefit from a healthy and restored New York City, just as New Yorkers benefit in the vitality of our cities.

There are other reasons, equally pressing, why this legislation is necessary and appropriate.

The imminent default of New York City on some of its municipal obligations will have a great impact on the economy of the Nation and the credit market. They rate of recovery from the recession will be affected. States and political subdivisions in every section of the country may find it more difficult to sell municipal bond issues at reasonable interest rates. In that event, State and local taxpayers everywhere will be the ultimate losers through higher interest costs, delayed capital programs, reduced services and yet still higher taxes. As States and cities slow down capital investments the economy could go into a downward slide.

Protecting the integrity of our credit system is a Federal responsibility. Congress has demonstrated its recognition of this responsibility on many occasions. The Federal Reserve System is the best example of our commitment to the maintenance of an orderly monetary and credit system.

The impact of a default by New York City will not be limited to our shores. Foreign confidence in the credit of the Nation, the States and our municipalities is at stake. We who are close to the scene may have a different understanding of the resiliency of our economy and political system than those residing and making decisions thousands of miles away. Thus, the potential damage to our credit standing abroad is further reason for Congress to enact legislation to guarantee loans made to New York City and other municipalities in similar straits.

Our Nation has successfully passed through many crises because of the great stability of our institutions. The financial crisis of New York City will—and must—be managed smoothly. Now is not the time for fiscal brinksmanship to be played by interests—public and private—who seek to achieve in this crisis atmosphere ends totally unrelated to the real problem before us. Congress must keep its eye on the real target—the stability and smooth functioning of the world's best credit and monetary system. We should not be distracted by the other issues surrounding this problem which can and will be dealt with independently of the emergency now facing us.

By Mr. JAVITS:

S.J. Res. 139, A joint resolution to authorize the Secretary of the Interior to accept St. Paul's Church, Eastchester, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

ST. PAUL'S CHURCH

Mr. JAVITS. Mr. President, I am introducing legislation to preserve as a historic site St. Paul's Church, Eastchester, in Mount Vernon, N.Y.

The Eastchester village green, surrounding the church, was the scene of an election in 1733 in which the celebrated German immigrant printer, John Peter Zenger, reported on corrupt election practices. As a result of his reporting, Zenger was arrested, tried, and acquitted on charges of seditious libel in an action brought by the King's appointed colonial Governor. The trial was a major event which led to the inclusion of the guarantee of freedom of the press in the Bill of Rights.

St. Paul's Church, Eastchester, served during the American Revolution as a hospital for Hessian soldiers who were wounded during the Battle of Pelham on October 18, 1776. The church bell which St. Paul's Church, Eastchester, acquired in 1758 was cast by the same craftsmen and in the same foundry as the Liberty Bell. Presidents John Adams, John Quincy Adams, and Franklin Roosevelt all have worshipped at St. Paul's Church, Eastchester.

The church was designated as a national historic site by the Interior Department in 1943, following a restoration which was done under the leadership of Sara Delano Roosevelt. However no money has been provided for the site.

The problem now is that this historic site is in a state of ill repair, and in need of restoration. The Episcopal Diocese of New York, which owns St. Paul's, is no longer able to maintain it as an active church. However, the diocese recognizes the historic significance of the church and grounds, and is willing to donate the property to the National Park Service. The church would no longer be used for religious purposes.

There are many people in Westchester County and around the country who are eager to see St. Paul's protected permanently. Such organizations as the Society of the National Shrine of the Bill of Rights at St. Paul's Church, Eastchester, Inc., the Knapp Chapter of the Daughters of the American Revolution in Pelham, N.Y., the Eastchester Historical Society, the city of Mount Vernon, the town of Eastchester, and others have been actively involved in seeking to achieve preservation once dedicated as a historic site. I understand its use as a religious establishment will be ended.

A companion measure has been introduced in the House by Representative OTTINGER.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 1124

At the request of Mr. BUCKLEY, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1124, a bill to amend the Small Business Act to assist in the financing of small business concerns owned by persons who are disadvantaged because of certain social or economic considerations.

S. 1520

At the request of Mr. HUMPHREY, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 1520, a bill to provide for the issuance of a special postage stamp in commemoration of the 150th anniversary of Norwegian immigration to the United States.

S. 2207

At the request of Mr. FONG, the Senator from Indiana (Mr. HARTKE), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Maine (Mr. MUSKIE) were added as cosponsors of S. 2207, a bill to provide for the exclusion of industrially funded personnel in computing the total number of civilian personnel authorized by law for the Department of Defense in any fiscal year.

S. 2312

At the request of Mr. BURDICK, the Senator from Montana (Mr. METCALF) and the Senator from New Mexico (Mr. MONTOYA) were added as cosponsors of S. 2312, a bill to amend the Tariff Act of 1930 so as to exempt certain private aircraft entering or departing from the United States and Canada or the United States and Mexico at night or on Sunday or a holiday from provisions requiring payment to the United States for overtime services of customs officers and employees.

S. 2350

At the request of Mr. SYMINGTON, the Senator from Florida (Mr. CHILES) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 2350, a bill to amend the National Security Act of 1947, as amended, to provide that the Secretary of the Treasury become a statutory member of the National Security Council.

S. 2356

At the request of Mr. BUCKLEY, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 2356, a bill to amend the Internal Revenue Code of 1954 to allow a deduction for amounts paid by a taxpayer for tuition to provide an education for himself or for another individual.

S. 2386

At the request of Mr. TAFT, the Senator from South Carolina (Mr. THURMOND) and the Senator from Idaho (Mr. MCCLURE) were added as cosponsors of S. 2386, a bill to deny Members of Congress any increase in pay under any law passed, or plan or recommendation received, during a Congress unless such increase is to take effect not earlier than the first day of the next Congress.

S. 2446

At the request of Mr. CHURCH, the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Dakota (Mr. BURDICK), and the Senator from Iowa (Mr. CULVER) were added as cosponsors of S. 2446, a bill to amend the Social Security Act to freeze medicare deductibles.

S. 2465

At the request of Mr. MCCLURE, the Senator from Wyoming (Mr. HANSEN), the Senator from Utah (Mr. GARN), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 2465, a bill to accelerate the formation of investment capital required to expand both job opportunities and productivity in the private sector of the economy.

S. 2474

At the request of Mr. CHURCH, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 2474, a bill to amend title XVIII of the Social Security Act to prevent the imposition, under part B thereof, of more than one deductible with respect to expenses incurred for the purchase of any particular piece of durable medical equipment.

S. 2473

At the request of Mr. CHURCH, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 2473, a bill to amend title XVIII of the Social Security Act to increase the medicare inpatient hospital lifetime reserve from 60 to 120 days and to reduce the daily coinsurance charge applicable for such lifetime reserve from one-half to one-fourth of the part A inpatient hospital deductible, and for other purposes.

SENATE RESOLUTION 144

At the request of Mr. BURDICK, the Senator from Washington (Mr. JACKSON) and the Senator from Nebraska (Mr. HRUSKA) were added as cosponsors of Senate Resolution 144, to urge the restoration of the status of amateur athlete for the late Jim Thorpe, and for other purposes.

SENATE RESOLUTION 285—ORIGINAL RESOLUTION REPORTED RELATING TO PARTICIPATION BY THE SECRETARY OF AGRICULTURE IN INTERNATIONAL AGRICULTURAL NEGOTIATIONS

(Placed on the Calendar.)

Mr. BELLMON, from the Committee on Agriculture and Forestry, reported the following original resolution:

S. RES. 285

Whereas the continued strength and vitality of American agriculture depend on unencumbered access to foreign markets;

Whereas the export of agricultural commodities from the United States permits American farmers to enjoy production economies which makes possible lower food costs to the American consumer;

Whereas agreements reached in international negotiations can have implications for domestic agriculture;

Whereas it appears that the unique expertise on American agriculture of the Department of Agriculture has not been appropriately utilized in recent negotiations with foreign governments affecting agriculture: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) with respect to all negotiations with foreign governments concerning the exportation or importation of agricultural commodities, the Secretary of Agriculture shall serve as a principal representative of the United States Government; and

(2) any agreements or understandings with foreign governments regarding the exportation or importation of agricultural commodities shall be submitted to the Senate Committee on Agriculture and Forestry.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President of the United States.

SHORT EXPLANATION

This resolution expresses the sense of the Senate that—

(1) With respect to all negotiations with foreign governments concerning the exportation or importation of agricultural commodities, the Secretary of Agriculture shall serve as a principal representative of the United States Government; and

(2) Any agreements or understandings with foreign governments regarding the exportation or importation of agricultural commodities are to be submitted to the Senate Committee on Agriculture and Forestry.

BACKGROUND AND PURPOSE

I.

On September 25, 1975, Senator Bellmon introduced S. J. Res. 132, requiring that the Secretary of Agriculture—with respect to all negotiations with foreign governments concerning the exportation or importation of agricultural commodities—serve as the principal representative of the United States Government.

The Committee on Agriculture and Forestry, in its consideration of S.J. Res. 132, determined that the Committee's concern regarding the proper role of the Secretary of Agriculture in international agricultural commodity negotiations could be more appropriately expressed by a sense of the Senate resolution.

During the past few months, the Administration has placed a moratorium on additional sales of United States grain to the Soviet Union and Poland. The stated reason for this action was that these two countries are not "regular" customers for U.S. grain and should not be allowed to make additional purchases until the exact size of the American grain harvest is known.

Subsequently, the President announced that he was sending officials of the Department of State to the Soviet Union to negotiate a long-term supply arrangement. Although the Under Secretary of State was accompanied on this mission by a Department of Agriculture official, such official was a technical adviser and not, therefore, in a policymaking position.

After members of the Committee on Agriculture and Forestry made strenuous objections to the relegation of the interests of American agriculture to a secondary role in the negotiations with the Soviet Union, an Assistant Secretary of Agriculture was included in the second negotiating team sent to the Soviet Union.

III.

It is the view of the Committee, as expressed in the resolution, that the Secretary of Agriculture should be on an equal footing with other Departments in negotiating any agreements which will ultimately determine how much American producers may sell to foreign countries. Neither the Department of State nor any other agency of the United States Government currently holds any grain; therefore, the current negotiations with the Soviet Union directly affect every American producer. In the Committee's judgment, these producers deserve to be represented by the Secretary of Agriculture (or his representative) on an equal policymaking basis with all other Departments and agencies of the government.

IV.

This resolution also expresses the sense of the Senate that any agreements or understandings with foreign governments regarding the exportation or importation of agricultural commodities are to be submitted to the Committee on Agriculture and Forestry. The Committee has received a briefing from the Under Secretary of State, Charles Robinson, and Assistant Secretary of Agriculture, Richard Bell, on the progress of the discussions with the Soviet Union on the long-term supply arrangement. The Committee believes that such continued briefing and consultation will be in the interest of American producers and consumers.

Mr. BELLMON. Mr. President, American farmers are beginning to question what the administration's agriculture policy really is. When the 1975 Emergency Farm Bill was vetoed, farmers were promised "unfiltered access" to world markets. The administration stated that government subsidies and controls had been replaced by the free market. On several occasions, the Secretary of Agriculture testifying before Senate Agriculture and Forestry Committee stated that the administration's agriculture policy was simply a free market.

As an editorial in the October, 1975 issue of Progressive Farmer titled "Farmers Trapped by Politics of Cheap Food!" points out, the free market is allowed to operate only on one side—the downside. I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

FARMERS TRAPPED BY POLITICS OF CHEAP FOOD!

The United States must make up her mind! Does she really want American farmers to go all out on production to help feed a hungry world? Or does she want to limit production and control exports? The choices must be made, because to go all out on production and control exports at the same time is a sure blueprint for agricultural disaster.

Right now, the United States seems to be following the blueprint for disaster. Farmers were urged to produce agricultural commodities in unprecedented quantities. And they're doing it. Then, right when exports start moving and prices improve to the point at which farmers can break even or make a little profit, the administration clamps the lid on exports. This is the second time in two years. See chart for what happened to prices in 1974 when export controls were announced.

Oh, we know the administration denies it is controlling exports. But it is dealing in semantics. By whatever name you call it, Secretary Butz, speaking for the Ford administration, called a halt to further sales of grain to Russia. And that is export control!

That's the way farm organizations across the country see it too. And they're really up in arms.

For instance, Morris Bowman, president of the Arkansas Farm Bureau, called the Secretary's action "a doublecross, and potential dynamite in the market."

"The Government has gone back on its word," he said. "Officials have consistently assured farmers that if we produced all out the markets would be available, including overseas. Imposition of Government controls again means that the free market is allowed to operate only on one side—the downside. Farmers feel that they have been trapped again by the politics of cheap food."

That's the key—Cheap Food! The Government is knuckling under to pressure—or expected pressure—from consumer groups and labor unions. It was these same groups that campaigned hardest to get rid of Government farm programs. "It's not right to subsidize farmers," they screamed a few years back. And as long as the market operates on the downside, these groups are as silent as death. But let the market start moving up, and the consumer groups, labor unions, and Government officials let out a roar.

What are the facts? Compared with 1974 crops, present estimates put the 1975 crop at 26 percent more corn, 29 percent more grain sorghum, 19 percent more wheat, and 18 percent more soybeans. Producers know that we will use only about half these commodities domestically. They know that a major portion must move in export trade. And exports are vital for our international balance of payments. The Government promised that exports would not be controlled.

The American Soybean Association (ASA) issued a warning that Government efforts to restrict agricultural exports may result in farm production cutbacks next year. In a special resolution, ASA says that "Government export controls have cost U.S. farmers millions of dollars in lost sales and lower prices. Pushing farmers to the point where they reduce production is the quickest way to increase the cost of food."

What's the answer? Progressive Farmer believes that the Ford administration has got to quit playing politics with food. We badly need a national agriculture and food policy that sets out the national goals and guidelines needed by both producers and consumers. Set specific goals each year with specified quantities of each commodity that will meet domestic needs as well as export needs. Announce to the nation and the world that for 1976 American farmers are being asked to produce specific quantities for domestic use and specific quantities for export. Then quit pussyfooting around and stick by our commitments. This will give farmers and U.S. consumers something they can rely on. And it will tell our export customers in advance what they can depend on.

Mr. BELLMON. Mrs. President, the whole point to the Progressive Farmer editorial is that the administration must quit playing politics with food. The American farmers need and deserve a national agriculture and food policy. In short, grain producers need to know what the ground rules are, otherwise they cannot and should not be expected to go all out in their production efforts in 1976.

I have written President Ford requesting that he define his agriculture policy more clearly. Wheat producers are now planting winter wheat in Oklahoma for harvest in May and June 1976, yet, they do not know whether the administration will allow this wheat to be exported.

I ask unanimous consent that this letter to President Ford be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 8, 1975.

HON. GERALD R. FORD,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Oklahoma and southwestern wheat farmers are now planting winter wheat for harvest in May and June, 1976. Yet they do not know whether the Administration will allow this wheat to be exported. Therefore, they are unsure about how much to plant.

When you vetoed the 1975 Emergency Farm Bill, you stated the farmers would have "unfettered access" to world markets. However, there is now an embargo on grain sales to Russia even though the 1975 grain production has reached record levels. Sales to Poland are now also prohibited.

From Secretary Robinson's briefing of the Senate Agriculture Committee, it appears that an agreement is eminent that will require the Russians to purchase substantial quantities of grain annually with an option

to purchase more if they so desire. Secretary Robinson has stated that the Russians would be able to purchase additional grain over the amount in the agreement if there is not a shortage of grain domestically provided the price did "go through the roof". Farmers need to know what the "roof" over the prices is.

It is also important for farmers to know who will determine if the grain is available and what price criteria will be used. The carryover for wheat was between 300,000,000 and 400,000,000 bushels in 1974 and 1975. This is more than a 6 months supply for the United States. The carryover will likely be higher in 1976 unless exports are encouraged. Are these levels of carryover adequate to avoid further embargoes?

In short, Mr. President, grain growers need to know what the ground rules are, otherwise they cannot and should not be expected to go all out in their production efforts in 1976. A statement from you on this matter would be extremely helpful.

Sincerely,

HENRY BELLMON.

SENATE CONCURRENT RESOLUTION 69—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO NUCLEAR REDUCTION, TESTING, AND NONPROLIFERATION

(Referred to the Committee on Foreign Relations.)

Mr. CRANSTON. Mr. President, Senator BILL BROCK of Tennessee, CHARLES MCC. MATHIAS, JR., of Maryland, and I are together submitting a concurrent resolution proposing five major steps to control nuclear power.

Joining us as original cosponsors are six members of the appropriate subcommittee of the Senate Foreign Relations Committee, to which the resolution will be referred. They constitute two-thirds of the members of the Subcommittee on Arms Control, and their support is indicative of the strong prospects for serious consideration of the resolution and action on it. These cosponsors are Senators HUMPHREY, BIDEN, MCGOVERN, PELL, CLARK, and MCGEE.

The chairman of the subcommittee, Senator SYMINGTON, and its other two members, Senators CASE and JAVITS, while not joining us as cosponsors, have indicated to us that they share our concern over the issue of uncontrolled nuclear power, their support of our general objectives, and their concurrence in the need for action.

Chairman SPARKMAN of the Foreign Relations Committee, Majority Leader MANSFIELD, and Minority Leader HUGH SCOTT have indicated to us the same concern, support, and concurrence.

Mr. President, the fact that nuclear power is on the loose in the world is the single most important problem facing our Nation and mankind.

Let me sum up most succinctly this resolution.

OUTLINE

1. It is a major Congressional initiative for peace, addressing several major aspects of the nuclear control problem.

2. It is consistent with nuclear initiatives of the Ford administration and its predecessors.

3. It requires a quid pro quo from the Soviets by insisting on parity and verification procedures.

4. It provides incentives for nonnuclear states, who feel discriminated against, by offering nuclear energy in return for abstaining from nuclear weapons.

5. It is a constructive way for Congress to go about influencing the formulation of foreign policy, vis-a-vis the executive. It is a statement of principles and policy goals.

PROVISIONS

1. Urges that the principles of strategic parity in the Vladivostok accord be translated—promptly—into a treaty, to be followed immediately by negotiations for a verifiable, mutual 20 percent reduction in nuclear weapons.

2. Urges a comprehensive agreement ending all underground nuclear explosions under adequate verification.

3. Urges a halt on further transfers—exports—of nuclear technology to countries not accepting International Atomic Energy Agency safeguards or not joining Non-Proliferation Treaty.

4. Urges an agreement among suppliers to reprocess plutonium in secure regional centers—proposed by Kissinger on September 22.

5. Urges a halt in the production of weapons grade material for weapons use under a verification system. If this is done, urges the sharing of the products of the nuclear enrichment facilities of the major nuclear powers with those nations who sign the Non-Proliferation Treaty and accept International Atomic Energy Agency safeguards.

In a world preoccupied with a myriad of other problems, the transcendent crisis of our time—the threat of nuclear war and the annihilation of most of mankind—continues to worsen almost unnoticed.

We are doing far too little to avert that threat and this is one case where too little can literally mean "too late."

The nuclear arms race between the United States and the Soviet Union continues, for all practical purposes, virtually unchecked. In the past 7 years, the number of deliverable warheads on strategic missiles on both sides has increased nearly fourfold. The so-called "cap" on the level of nuclear weapons sets, instead, new and higher target ceilings that both sides can shoot at.

Meanwhile, other nations have joined in the race—or are acquiring the potential:

Great Britain is also a major nuclear power. So are France and China—two countries that have refused to sign the nuclear Non-Proliferation Treaty.

Four other countries are also in the business of selling nuclear materials and know-how around the world—South Africa, Japan, Canada, and West Germany—and at least three others have the capability of becoming nuclear suppliers: Netherlands, Italy, and Sweden.

And none of us are particularly meticulous about whom we sell these things to or under what safeguards: Canada sold a reactor to India and India—another nonsignator to the Non-Proliferation Treaty—made its own bomb. Earlier this year West Germany sold a complete nuclear fuel cycle to Brazil. Brazil also is a nonsignator. And still another country—Iran—is in the process of buying eight reactors and there is speculation that it will not permit international inspection. The salesman: the United States.

It is estimated that there will be power reactors operating in at least 30 countries within the next 5 years and the so-called nonweapon countries will have enough plutonium in the 1980's to make 50 atomic bombs a week.

Where will it all end? And will it end before it ends us? Our survival demands strong, imaginative, creative action—and it demands it now. We may already be past the point of no return.

This resolution is an effort to induce a laggard Congress and hesistant White House to focus in on this issue and, hopefully, to come up with—at long, long last—a compelling act of statesmanship that will halt the world's silent slide into nuclear proliferation and disaster.

In sum, our proposal undertakes to bring nuclear weapons under control, to reduce their numbers, and to stop their spread.

Chairman SYMINGTON of the Subcommittee on Arms Control expressed many of these concerns, and suggested several of the steps our resolution proposes, in a remarkable statement that appears in the CONGRESSIONAL RECORD on March 13, 1975.

"Just 2 weeks ago," Senator SYMINGTON said, "the Defense Minister of Turkey, reacting to the U.S. arms embargo, boldly announced that his country has 'plans to manufacture atom bombs.'" And not so long ago President Qadhafi of Libya observed:

> Soon the atom will have no secrets for anybody. Some years ago we could hardly procure a fighter squadron. Tomorrow we will be able to buy an atom bomb and all its parts. The nuclear monopoly is about to be broken.
>
> More than 50 countries today have nuclear reactors . . . about 30 countries possess "weapons-quantities" of plutonium or highly enriched uranium which could be used in a bomb development program.

The fact that Senator SYMINGTON, with his great knowledge and experience in these matters and his total awareness of the threat to our national security and survival implicit in the fact that nuclear power is on the loose in our world, is chairman of the subcommittee responsible for consideration of this resolution gives me great hope and confidence that there will be appropriate action on it.

Mr. President, I ask unanimous consent that there appear in the RECORD at this point a copy of the resolution, and a detailed analysis of its provisions.

There being no objection, the resolution and analysis were ordered to be printed in the RECORD, as follows:

S. CON. RES. 69

Resolved by the Senate (the House of Representatives concurring),

Whereas the operation of the Treaty on the Non-Proliferation of Nuclear Weapons was reviewed in May, 1975, by a special conference which included parties to such Treaty;

Whereas such conference confirmed the fact that states with nuclear-weapons capability have made only limited progress in pursuing "negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and a treaty on general and complete disarmament," as called for by such Treaty;

Whereas a significant number of non-

nuclear weapons states have not acceded to such Treaty;

Whereas pressures generated by expanded energy requirements throughout the world have vastly increased the demand for non-military uses of nuclear energy;

Whereas it is important that further efforts be undertaken on an urgent basis to limit the dangers involved in peaceful and military nuclear developments and that the position of the United States Congress be understood with respect to its willingness to give full effect to the terms of the Treaty on the Non-Proliferation of Nuclear Weapons and to take further steps to limit nuclear dangers; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the President of the United States is respectfully requested to inform the appropriate foreign countries of the following declaration by the Congress of the United States with respect to arms control and disarmament negotiations and the proliferation of nuclear weapons materials:

(1) The Congress of the United States, noting the principles of strategic parity embodied in the Vladivostok Accord of November 24, 1974, urges their prompt embodiment in a Treaty. The Congress further urges, after the conclusion of such a Treaty, immediate negotiations on a verifiable mutual 20 percent reduction in the number of strategic nuclear delivery vehicles and the number of strategic missile launchers equipped with multiple independently targetable reentry vehicles.

(2) The Congress of the United States urges a comprehensive agreement ending underground nuclear explosions under adequate verification.

(3) The Congress of the United States, in order to reinforce international actions to prevent the proliferation of nuclear weapons and other nuclear explosive devices, urges a halt on further transfers of nuclear fuel, technology, and equipment to any country which has not accepted International Atomic Energy Agency safeguards on all its nuclear programs or which by January, 1976, has not become a party to the Treaty on the Non-Proliferation of Nuclear Weapons, upon the condition that all major nuclear suppliers agree to a similar halt on such transfers.

(4) The Congress of the United States urges an agreement among the major nuclear suppliers providing that, with respect to the plutonium resulting from any transfer between countries of nuclear fuel, technology, or equipment, all reprocessing of such plutonium will be performed in multinational regional nuclear fuel cycle centers which are protected by the strictest possible safeguards.

(5) The Congress of the United States urges a halt in the production of weapons grade material for weapons use under an adequate verification system. Following implementation of this provision, the Congress further urges, in order to share American resources and to guarantee nuclear fuel as needed to satisfy the legitimate energy needs of participating countries, the sharing of access to, and the product of, the nuclear enrichment facilities of the major nuclear powers with all nations who sign the Non-Proliferation Treaty and accept International Atomic Energy Agency safeguards.

The Secretary of the Senate and the Clerk of the House of Representatives are instructed to send an authenticated copy of this Concurrent Resolution to the President of the United States.

AN ANALYSIS OF THE CONCURRENT RESOLUTION ON "NUCLEAR REDUCTION, TESTING AND NON-PROLIFERATION"

SECTION (1)

Description

Congress urges the prompt translation of the strategic parity principles embodied in the Vladivostok Accord (SALT II) into a treaty. After the conclusion of the treaty, Congress urges *immediate* negotiations on a *verifiable, mutual* 20 percent *reduction* in the *number* of strategic delivery vehicles and the *number* of missile launchers equipped with MIRV's.

Commentary

The final details of the treaty are scheduled to be agreed upon when Brezhnev visits the United States late this year. The Senate will then be asked to approve it. The chief feature of the treaty will be the *ceiling* placed on the number of vehicles and "mirved" launchers in the inventory of the two superpowers, 2400 and 1320 respectively.

The next step would involve numerical reductions in the actual number of vehicles and launchers in the inventory of both sides. Twenty percent is an arbitrary figure. If the ceiling figures under Vladivostok were actually built up to, the 20 percent reduction would result in 1920 strategic delivery vehicles and 1036 launchers equipped with MIRV's on both sides. However, assuming disparities in numbers and MIRV-installation rates between the two sides, the reduction would appear to "favor" the Soviets in total number of vehicles and the United States in total number of launchers with MIRV's, remaining.

Section (1) meets two complaints recently directed at the talks between Moscow and Washington. Concern has been expressed that the Vladivostok Accord would encourage a bilateral arms race to the agreed upon upper limits, with the Soviets having a head start over the United States in the number and kind of ICBM's. A related view is that SALT II represents only token progress, another cosmetic device, which does not promote meaningful reductions in strategic arsenals. Immediate negotiations toward a substantial reduction target would provide, potentially, a response to these complaints. This resolution, therefore, provides a constructive linkage between the ceiling of a SALT II Treaty and the reductions of a SALT III follow-on agreement.

Section (1) also speaks to the convictions of the great majority of signatories to the NPT who believe that there is a direct linkage between nuclear arms reductions by the superpowers and the prevention of the further proliferation of nuclear weapons to current non-nuclear weapon states. Article VI of NPT states: "Each of the parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of a nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control."

The power of the US-USSR example is acknowledged in the international community. "Horizontal" non-proliferation must be accompanied by "vertical" non-proliferation. In strategic missiles alone on both sides, the number of deliverable warheads has increased nearly four-fold, from 2,600 to 8,000 in the seven years since NPT was signed. And these figures do not include thousands of tactical nuclear weapons and those delivered by bombers.

SECTION 2

Description

Congress urges a comprehensive agreement ending *all* underground nuclear explosions under adequate *verification*.

Commentary

As bilateral talks with the Soviets proceed on SALT matters, talks on an underground test ban can proceed concurrently.

In 1963, the U.S., the U.S.S.R., and the U.K. signed the Test Ban Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water. The parties agree "not to carry out any nuclear weapon test explosion, or any other nuclear explosion" in the designated areas, or in any other environment if the explosion would cause radioactive debris to extend beyond the borders of the state conducting the explosion. The treaty is of unlimited duration. Most of the countries of the world have now signed it, but not France and the P.R.C. (The latter two continue to test in the atmosphere.)

At the Moscow Summit meeting of July, 1974, the U.S. and the U.S.S.R. took the first step toward limiting *underground* tests by signing the "Treaty on the Limitation of Underground Nuclear Weapon Tests." Under the terms, each party agrees not to carry out any tests of *weapons* having a yield in excess of *150 kilotons* after *March 31, 1976*, to keep its underground tests to a minimum, and to work toward ending *all* underground *nuclear weapon tests*. *Verification* is to be by national means of detection. The accord provides for inspection by satellite photography and seismic readings of earth tremors. The two countries pledge to designate test areas in advance, to exchange geological measurement of weapons yield and to fire two "calibrating shots" so that standards of measurement could be set. (Critics charge that, set at 150 KT, the threshold is so high as to have little effect on the weapons programs of either the US or the USSR.)

Article III states that the provisions of the treaty do not apply to nuclear explosions for "peaceful purposes," and that these "shall be governed by an agreement which is to be negotiated and concluded by the Parties at the earliest possible time." The decision not to have the treaty take effect before *March 31, 1976*, was in part determined by the need to give the two parties time to conclude this agreement. Negotiations are under way. (The treaty has not yet been submitted to the Senate.)

In the NPT, the nuclear powers obligated themselves to *share* the potential benefits of peaceful applications of nuclear explosions with non-nuclear states. Hence, agreed procedures for peaceful explosions, should these become technically and economically feasible, are also significant in limiting nuclear proliferation. (Article V of the NPT states in part that "potential benefits from any peaceful applications of nuclear explosions will be made available to non-nuclear weapon states Party to the Treaty on a non-discriminatory basis . . ." Further, "non-nuclear weapons states Party to the Treaty shall be able to obtain such benefits . . . through an appropriate international body with adequate representation of non-nuclear weapons states. Negotiations on this subject shall commence as soon as possible . . .")

Section (2) of this resolution urges a verifiable agreement ending *all* underground nuclear explosions on the part of states that have nuclear weapons. There is no threshold on yield, and no distinction is made between peaceful and military explosions (a distinction in motive that is not provable, incidentally).

The value of peaceful nuclear explosions (PNE's) for engineering purposes is highly controversial. Various groups of U.S. scientists have tried hard recently to persuade their Soviet counterparts that on the basis of "Plowshare", PNE's are uneconomic, dangerous, and a spur to proliferation.

If a total ban on underground testing cannot be negotiated because of the belief of some states that PNE's may contribute to economic development, then perhaps an international PNE facility could be set up to handle tests as exceptions to an underground test ban. (The current U.S. position calls for "internationally approved facilities," national in nature.) Such a facility would not affect the stockpiles of nuclear weapons currently possessed, but it would give to countries who held back from signing the NPT on grounds of status and autonomy a greater sense of participation in a far less discriminatory system.

In any case, the United States can accept a comprehensive test ban without a threat to our nuclear deterrent or our security. (In

the 93rd Congress, S. Res. 67, a resolution calling on the President to promote negotiations with the Soviet Union for a Comprehensive Test Ban Treaty was approved by the Senate Foreign Relations Committee—but no action was taken on the Senate floor.)

If the threshold test ban treaty does not cover peaceful nuclear explosions, and remains set at the high level of 150 kilotons, it will offer little incentive to any state to refrain from its own developments.

Note: On September 11 the Soviet Union put forward at the U.N. a draft for a treaty that would prohibit all underground tests of nuclear weapons as well as those tests prohibited by the 1963 Test Ban Treaty. Title: "A Treaty on the Complete and General Prohibition of Nuclear Weapon Tests." The text of the treaty states that it cannot become operative until it has the approval of *all countries with nuclear weapons* (US, USSR, UK, France, CHINA). Significantly, the text failed to provide adequate safeguards against secret underground testing. Nuclear explosions underground for peaceful and nonmilitary purposes are to be covered by "special agreement" according to the Soviets. The vagueness of this provision is an important objection because, w/o adequate safeguards, "peaceful" explosions can be used to develop nuclear weapons technology.

Note: In July 1975 it was announced after Kissinger and Gromyko met in Geneva that the Soviet Union had accepted the principle of on-site inspection of nuclear explosions in connection with the U.S.-U.S.S.R. underground threshold treaty. But the Soviets did not mention such inspections in the draft treaty submitted at the U.N. Instead, it calls for vertification of compliance through "national technical means" and asks governments to assist by exchanging seismic data. It would appear that the Soviets have not yet become reconciled to on-site inspections under a comprehensive test ban. But Kissinger did say on Sept. 22 that the negotiations setting a threshold on underground tests constitute a significant step "towards a verifiable comprehensive test ban."

The Soviet Union has long advocated a total ban on tests, and the United States has long said it cannot agree to such a ban without on-site inspection, since a seismograph cannot distinguish between nuclear blasts and earthquakes or between weapons tests and blasts for peaceful purposes.

SECTION 3

Description

Congress urges a *halt* by *all* major nuclear suppliers on further *transfers* (exports) of nuclear fuel, technology, and equipment to *any* country which has not accepted IAEA safeguards on *all* its nuclear programs *or* which by January has not beocme a party to NPT.

Commentary

At least eight suppliers would be covered by this section: US, USSR, UK, France, Canada, West Germany, Japan, South Africa. Other potential suppliers are the Netherlands, Italy, Sweden. Prominent nuclear customers that could have been affected by such a provision earlier are Brazil, Iran, India.

Under Section 3, Israel and Egypt would have to sign on to NPT or come under IAEA in order to receive from the United States the 600 megawatt reactors offered by President Nixon. Incidentally, it is U.S. policy not to export the total fuel cycle (as West Germany has done with Brazil).

A halt on transfers would be an important first step in confronting directly the issue of proliferation. It is consistent with the cessation of underground tests and can be pursued simultaneously.

At the U.N. on Sept. 22, Secretary Kissinger called attention to new efforts among the *supplier states* to strengthen and standardize safeguards and controls on the export of nuclear materials, adding that commercial competition must not be allowed to erode safeguards. He repeated a U.S. proposal for "an international convention setting standards to protect the physical security of nuclear materials in use, storage or transfer."

SECTION 4

Description

Congress urges an agreement among the suppliers to *reprocess plutonium* (resulting from transfers) in secure regional centers under multinational control.

Commentary

Plutonium which is sufficiently pure to be used in a lightwater reactor—or a *bomb*—requires in most cases processing in a *chemical separation plant* that separates it from unspent uranium and other materials contained in fuel rods which have been irradiated in a reactor. For most of the reactors being built, where the spent fuel rods are reprocessed is where weapons-grade plutonium could also be produced. India has recently shown that plutonium need only be extracted from the spent fuel rods through reprocessing techniques that can be readily built on a small scale.

The numbers of spent fuel rods that will be moved about in the years to come is enormous. One estimate is that there will soon be between 7000–12,000 shipments annually between reactors and reprocessing plants. By the early 1980's this will mean that the present *nonweapons* countries will have available to them annually enough plutonium 239 to make 50 atomic bombs a week—if they chose to. (Kissinger: "The greatest single danger of unrestrained nuclear proliferation resides in the spread under national control of reprocessing facilities for the atomic materials in nuclear power plants.")

Not many reprocessing plants have yet been built, due to expense. We have arranged to have recipients of fuel produced here to send their spent fuel rods for reprocessing to the United States (or in some cases a third country).

This is a good (early) time to rethink the system. On Sept. 22 Secretary Kissinger, drawing on a plan under discussion at IAEA, proposed—as "a major step to reinforce all other measures"—the establishment of "multinational regional nuclear fuel cycle centers." He argued that their existence would reduce the incentive for small and inefficient reprocessing, facilities, limit the possibility of diverting peaceful nuclear materials to national military use, and create a better framework for applying effective international safeguards.

This concurrent resolution would *put Congress on record as endorsing the U.S. initiative at the U.N.*

A series of internationally controlled facilities, along with regulated transport of lethal material to and from plants, could represent "community" control of a process that is crucial to all—but is currently held by the nuclear "monopolists." A planned regional approach would reduce the danger of domination or capture and, more positively, spread control facilities and thus participation.

SECTION 5

Description

Congress urges a halt in the production of *weapons grade material for weapons use* under a verification system. *If* this is done, Congress further urges the sharing of access to, and the product of, nuclear *enrichment facilities* (gaseous diffusion plants) of major nuclear powers with those nations who sign the NPT and accept IAEA safeguards.

Commentary

This section is the most unique feature of the resolution. It urges the nuclear weapons states to take a big step of statemanship comparable to the Baruch-Lilienthal plan put forward by the United States after WW II. It might be termed the "open facilities" plan.

It can be put forward in international forums as a target to be pushed for down the road as the steps in Sections 1–4 are realized. Looking ahead to a climate in which steps have been taken to share at least some important peaceful nuclear responsibilities and privileges, this step would provide the means by which the international community could get a handle on the basic element of the process—the uranium itself.

Weapons grade fissionable material is produced by power reactors and by military reactors. Under the first part of Section (5) the production of all fissionable material for military purposes in both types of reactors would be ended. If Congress approved this part of the resolution, it would be revitalizing the 1966 U.S. proposal for a "cut-off" in the production of all weapons grade material and the transfer of substantial military stocks of U–235 and plutonium to peaceful uses.

Incidentally, U.S. weapons needs are presently consuming only a very small portion of the enriched nuclear fuels that we are capable of producing. A proposal to halt the production of weapons grade material for military purposes would probably not be favored by the Soviet Union at this time since they are now in the initial stages of an extensive MIRV program requiring manufacture of many new warheads.

The timing of the proposal may not be right but negotiations are never accomplished instantaneously. Besides, we are talking about an initiative to be suggested by Congress now to take effect over the long term, if other nuclear weapons states agree.

Coupled with the "cut-off" proposal in Section (5) is a proposal that would amount to the internationalization of enrichment plants. IAEA inspection could be performed at *all* nuclear power reactors using both U–238 and U–235.

At this time the *United States* has a virtual *monopoly* on enrichment facilities since we possess about 90 percent of the world's existing capacity. In contrast to the period of the Baruch-Lilienthal plan, however, the enrichment technology is one in which *both* the U.S. and the U.S.S.R. have achieved the required know-how—so this idea may be acceptable to the Soviet Union.

In addition to its symbolic effect, this plan would have the real value of guaranteeing nuclear fuel as needed to satisfy the energy needs of participating countries. Perhaps the driving force in the nuclear policies of the nations of the world—in the future—will be to guarantee that their energy needs are met, with weapons proliferation per se of secondary importance. Therefore, such an initiative by Congress could provide *the impetus* for a better climate in which to head off the slide toward uncontrolled proliferation.

A final point: *If* no weapons grade materials are being produced for weapons use—as verified by IAEA inspectors—*why not* permit international access to enrichment facilities and the sharing in the product as determined by an international board?

Mr. BROCK. I am very pleased to be a sponsor of the concurrent resolution regarding "nuclear reduction, testing and non-proliferation" submitted today by Senator CRANSTON. As Lincoln Bloomfield points out in the July issue of Foreign Affairs, two recent events have underlined the importance of harnessing this useful, but potentially dangerous energy source of the atom. They are first, India's so called "peaceful" nuclear explosion of May 1974, and second, the proliferation

of nuclear energy that was bound to come in the wake of the 1975 oil embargo and ensuing energy crisis.

The Indian detonation was a great shock to many people of the world. Not only did it break the 11-odd year lag of nuclear proliferation since the Chinese explosion of 1964, it was particularly disappointing that a country which professes to be a leader in world peace movements would have been the one to break the barrier. And, this Indian explosion is considered by many experts to be, unfortunately, not an isolated case. Lincoln Bloomfield writes:

What seemed to undermine the earlier mild optimism that the NPT could do the job was not that "nuclear-weapons-capable" countries such as Sweden, Canada, Switzerland, Australia, Netherlands, Italy, Poland, Argentina, Brazil, Japan, and West Germany, or even Israel, or Egypt were on the verge of exploding their own nuclear devices (though many think Israel is in fact the "seventh" nuclear weapons power). It was rather that the general climate of expectation about what was likely to take place had changed significantly. Many now believe that there will be Nuclear Weapons Power numbers 7, 8, 9 ad infinitum.

The second event is the energy crisis that has awakened interest in the use of nuclear energy. For the next decade or so, it appears that the only available alternative we have to oil is nuclear energy. This could be good, useful source of energy, but unfortunately, as we have seen from the Indian example, "peaceful" energy plants can too easily be converted to other uses. Then, of course, there is the whole question of safety of these nuclear plants. As a representative of Tennessee, the nuclear state, I know that nuclear energy can be safely harnessed, but it will take certain guidelines such as adherence to the International Atomic Energy Agency safeguards.

The administration is working toward agreements on these important matters, but I think that it is time we in Congress also expressed our concern.

In November of 1974, the President met with General Secretary Brezhnev in Vladivostok to work out preliminary agreements on SALT II. Negotiations for SALT II are now proceeding and I hope will be successfully completed before the 1977 deadline. Prior to this, in September 1974, the administration offered to open all American facilities to IAEA inspection. And, of course, the American record in this whole field of sharing and safety is well known from the 1946 Baruch plan, calling for "managerial security," along with "power to control, inspect, and license all other atomic activities," to President Eisenhower's "atoms for peace" initiative of 1953, through the various test ban treaties, and nonproliferation treaty, SALT talks, et cetera. While it is proper for the administration to take these measures, I also think that it is proper for Congress to reaffirm our partnership role and support these various efforts.

Mr. President, the dangers of nuclear war cannot be sufficiently emphasized. I congratulate Senator CRANSTON on this initiative and hope that this resolution will be a major step toward harnessing the atom as an instrument of death and using its incredible potential to enhance life.

Mr. MATHIAS. Mr. President, I am delighted to join Senators CRANSTON and BROCK in sponsoring this measure. The entire question of nuclear proliferation—whether for military or peaceful uses—has been obscured in our concern with various day-to-day problems and crises. Yet, as the growing energy requirements of both the developed and developing parts of the world generate new pressures for peaceful nuclear development and as the number of nations with near or actual nuclear capability for military purposes expand, few questions seem to be of greater long range significance. For that reason, I believe it is appropriate and constitutionally correct for the Congress to address this problem and to suggest—domestically and internationally—what the major guidelines ought to be for further negotiations in this area.

Let me emphasize at this point that guidelines are what we are talking about in the resolution. We do not propose specifics nor do we propose unilateral action by the United States. Rather, we are suggesting that the issues surrounding the international movement of nuclear fuel, technology and related matters are issues of the highest import.

We are suggesting by covering a number of items in a single resolution that both peaceful and military potential of nuclear energy are linked and should be dealt with systematically.

We are suggesting that these matters are too important to leave to chance or to the risks involved in a set of unilateral actions by those states with the technical capability to export both fuel and technology.

We are suggesting that in a matter of such urgency the Congress has a responsibility to announce in advance its concern and to suggest the guidelines for an appropriate framework of negotiation.

We are, finally, suggesting a sense of urgency that is underscored by the forthcoming visit of Mr. Brezhnev to the United States. During this visit, it is expected that President Ford and Mr. Brezhnev will sign a treaty embodying the principles of the Vladivostok accords.

I believe this sense of urgency is clearly mirrored by the broad spectrum of views represented by my fellow cosponsors and myself.

SENATE CONCURRENT RESOLUTION 70—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO BROADENING THE OBSERVANCE OF THANKSGIVING

(Referred to the Committee on the Judiciary.)

Mr. HUMPHREY (for himself, Mr. CLARK, Mr. MCGOVERN, Mr. BURDICK, Mr. HATFIELD, Mr. CULVER, Mr. KENNEDY, Mr. MCGEE, Mr. DOLE, Mr. MONDALE, Mr. DURKIN, and Mr. LEAHY) submitted the following concurrent resolution:

S. CON. RES. 70

Whereas since 1621 Americans have each year celebrated a day of gratitude for the bountiful harvests and blessings of our land with feasts and family gatherings; and

Whereas Americans have a long-demonstrated history of compassion for the suffering of others at home and abroad; and

Whereas compassionate Americans seek a vehicle through which to translate their concerns into constructive action; and

Whereas there is a need to help combat world hunger beyond what governments are able to provide; and

Whereas in a world where hunger is haunting an ever-growing proportion of the human family, it is appropriate that Americans should express their thankfulness by sharing with the hungry of other countries; and

Whereas this observance should serve to rekindle the original spirit of sharing and give our people the pride and satisfaction of contributing toward a better fed world; and

Whereas this observance should serve to broaden the ethical and practical aspects of Thanksgiving; Now, therefore, be it

Resolved, That it is hereby declared to be the sense of the Congress, that—

(1) the national observance of Thanksgiving should include a voluntary practice to be called "Thankful Giving," whereby Americans are invited to share with those who are hungry abroad;

(2) before starting their Thanksgiving meal, families should consider making a personal donation to the hungry abroad as a way of giving thanks for the feast that follows;

(3) for those families or individuals who do not have a favorite charity, the Office of Food for Peace of the Agency for International Development is requested to serve as a focal point in locating an appropriate charity;

(4) the President, the governors of several states and local public officials should consider recommending the observance of "Thankful Giving" in their Thanksgiving Proclamations;

(5) schools, churches, clubs, labor organizations and the media should disseminate and promote the concept of "Thankful Giving."

SEC. 2. The Secretary of the Senate is directed to transmit copies of this resolution to the President, the Secretary of State and the Secretary of Agriculture.

BRINGING NEW MEANING TO THANKSGIVING

Mr. HUMPHREY. Mr. President, today I am submitting a concurrent resolution to bring new meaning to the celebration of Thanskgiving.

Joining me in submitting this resolution on the House side is Representative PAUL SIMON of Illinois who has indicated a great interest and concern regarding the issue of hunger throughout the world.

Joining me in submitting this resolution on the Senate side will be Senators CLARK, MCGOVERN, BURDICK, HATFIELD, DOLE, CULVER, KENNEDY, MCGEE, MONDALE, DURKIN, and LEAHY.

The purpose of this resolution is to give those Americans who are concerned over the hunger issue the opportunity to respond in a personal way as they themselves prepare to celebrate Thanksgiving.

Our people are truly generous, and they have shown increasing generosity even during this period of rampant inflation and depression.

Many of our citizens have written to me indicating not only an interest and a concern regarding hunger but the ultimate question "What can we do to help."

This resolution which we are submitting would supplement the efforts which

our Government engages in to encourage food production and help those who are hungry. Very often governmental programs, as we all know, are slow in reaching their target and laden with bureaucratic requirements.

This resolution, which would establish the practice referred to as "thankful giving" would rekindle the original purpose and spirit of Thanksgiving. This resolution does not in any way obligate anyone to give and particularly those who are not in a position to do so.

But, we do have many people who can and would like to contribute. I believe that this resolution would be useful in terms of encouraging concern among our people and enlisting their support for those in need.

In the resolution itself we have called upon the Food For Peace Office of the Agency for International Development to be of service in locating charitable organizations for those who wish to make inquiry as to where to make contributions.

In addition, the American Freedom From Hunger Foundation, the American Jewish Joint Distribution Committee, CARE, Catholic Relief Services, Church World Services, the U.S. Committee for UNICEF and the Unitarian-Universalist Organizations have joined together and established a single mailing address whereby interested citizens can make their contributions. It is Thanksgiving, Box 68, Washington, D.C. 20044.

I am hopeful that our public officials and the media will support this effort.

AMENDMENTS SUBMITTED FOR PRINTING

OPEN SENATE COMMITTEE MEETINGS—SENATE RESOLUTION 9—NOTICE OF MOTION TO SUSPEND THE RULES

AMENDMENT NO. 968

(Ordered to be printed and to lie on the table.)

Mr. ROTH submitted the following notice in writing:

In accordance with Rule XL of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to amend Rule XXVII of the Standing Rules of the Senate by proposing the following amendment to S. Res. 9, a resolution amending the rules of the Senate relating to open committee meetings:

AMENDMENT NO. 968

At the end of the resolution, add the following new section:

Sec. (a) Rule XXVII of the Standing Rules of the Senate is amended by adding at the end thereof the following new paragraph:

"3. Each conference committee between the Senate and the House of Representatives shall be open to the public except when the managers of either the Senate or the House of Representatives in open session determine by a roll call vote of a majority of those managers present, that all or part of the remainder of the meeting on the day of the vote shall be closed to the public.".

(b) The amendment made by subsection (a) shall not become effective until a similar rule is adopted by the House of Representatives.

(c) The caption of such rule XXVII is amended to read as follows: "CONFERENCE COMMITTEES; REPORTS; OPEN MEETINGS".

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 24

At the request of Mr. WILLIAMS, the Senator from California (Mr. TUNNEY) was added as a copsonsor of amendment No. 24 intended to be proposed to the bill (S. 425) the Foreign Investment Act of 1975.

ANNOUNCEMENT OF HEARING ON THE FEDERAL REPORTING AND RECORDKEEPING AFFECTING SMALL BUSINESS

Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business will hold a public hearing on Federal reporting and recordkeeping affecting small business on October 16, 1975, in Baltimore, Md. The location of the hearing will be in the Rosedale Library, Meeting Room, 6105 Kenwood Avenue, Baltimore, Md., and will begin at 9:30 a.m.

Cochairing the hearing will be the Senator from Maryland (Mr. BEALL) and the Senator from Nevada (Mr. LAXALT).

Further information on the hearing can be obtained from the office of the committee, 424 Russell Office Building, telephone 224–5175.

NOTICE OF ADDITIONAL COMMITTEE PARTICIPATION IN SMALL BUSINESS HEARINGS

Mr. NELSON. Mr. President, I wish to announce that the Small Business Committee hearings scheduled on October 21 and 22, to discuss the impact of environmental regulations on the small farm will be expanded. The Senate Agriculture Committee and the Senate Public Works Committee will participate in this joint hearing.

Hearings will be held on October 21 in room 457, Russell Senate Office Building and on October 22 in room 3110, Dirksen Senate Office Building beginning at 9:30 a.m.

Those Senators wishing to testify or submit a statement for inclusion in the hearing record should contact the Small Business Committee, 424 Russell Senate Office Building, telephone 224–5175, as soon as possible.

NOTICE OF HEARING

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, October 30, 1975, at 11 a.m., in room 2228, Dirksen Senate Office Building, on the following nomination:

Milton L. Luger, of New York, to be Assistant Administrator of Law Enforcement Assistance (new position, Public Law 93–415, September 7, 1974).

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing, with the committee a request to be heard and a statement of their proposed testimony.

The Subcommittee will consist of the Senator from Indiana (Mr. BAYH) chairman; the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Nebraska (Mr. HRUSKA).

NOTICE OF HEARING

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, October 30, 1975, at 10:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nomination:

Peter R. Taft, of California, to be an Assistant Attorney General, vice Wallace H. Johnson, resigned (Land and Natural Resources Division).

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing, with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

NOTICE OF HEARING ON WOMEN AND SOCIAL SECURITY

Mr. CHURCH. Mr. President, the Special Committee on Aging will hold hearings on "Women and Social Security" on October 22 and 23 at 9:30 a.m. in room 1114, Dirksen Senate Office Building. The focus of the hearings will be to discuss and comment on the working paper, "Women and Social Security: Adapting to a New Era," prepared by the committee's task force on women and social security. Witnesses will include Robert M. Ball, former Commissioner of Social Security; Mrs. Martha Griffiths, former U.S. Representative from Michigan; and Stephen C. Wiesenfeld, plaintiff in recent Supreme Court decision, Weinberger against Wiesenfeld.

ADDITIONAL STATEMENTS

NEED TO DIMINISH FEDERAL REGULATORY FUNCTIONS AND AGENCIES

Mr. CURTIS. Mr. President, with as large as the Federal Government has become, I am at times amazed that we are even able to function at all.

Knowing that others of my colleagues have probably experienced seemingly endless delays in getting so much as an acknowledgement out of Federal agencies, I would like to share a recent experience I have had with one Federal agency—the Federal Power Commission.

Before providing copies of my correspondence and the acknowledgement I received 6 months later, I would like to point out that the matter on which I wrote was and is of extreme importance to my State of Nebraska.

My letter of April 4, 1975, to the Federal Power Commission explains the problem in detail, but for the benefit of summation, I would say that it concerned a needless 1-, and possibly 2-year delay in the construction of a 650-megawatt steam electric powerplant which is vitally needed for the State to meet its electrical energy needs in the years ahead.

In matters of such importance, I think

it is deplorable that agencies of the Federal Government should be so lax or delayed in acting. The problem in the delays in construction of this important electric generation plant were bad enough, but the 6-month period necessary to acknowledge my letter is the ultimate in Federal bureaucracy.

Mr. President, I believe this situation is a good example of the problems the country has been experiencing because of an over-sized Federal Government, excessive regulation, and unwieldy bureaucracy. I believe it is proof of the need to diminish Federal regulatory functions and agencies.

I could think of no better way to start to trim the excessive, wasteful, and unproductive bureaucracy, than by eliminating or greatly reducing the Federal Power Commission.

I commend to my colleagues the reading of my April 4 letter, and the response of the Federal Power Commission of September 30, which I ask unanimous consent be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., April 4, 1975.

The CHAIRMAN and ALL COMMISSIONERS and Secretary KENNETH F. PLUMB,
Federal Power Commission,
Washington, D.C.

DEAR SIRS: This letter is in response to correspondence of March 27, 1975, from Mr. Kenneth F. Plumb, Secretary of the Federal Power Commission (FPC), and specifically responds to an invitation to comment on the application by Nebraska Public Power District (NPPD) for approval of use of lands within the boundary of the original North Platte-Sutherland project.

I am deeply concerned about the current delay in construction of the Gerald Gentleman steam electric generating facilities near Sutherland, Nebraska, because of the current energy shortages experienced by the United States, because of skyrocketing construction costs, and because of projected shortages in electrical energy for the State of Nebraska. Already, the cease and desist order issued by the Federal Power Commission has resulted in a year's delay in putting the plant into operation at a cost of millions of dollars to Nebraska's electrical users. Construction of the Gerald Gentleman plant must be allowed to be resumed at the earliest possible date if projected electrical power shortages in Nebraska are to be averted.

Because of my interest as a duly elected representative of the people of the State of Nebraska, I have become involved in the dispute concerning the Gerald Gentleman Station, and have closely followed the efforts and activities of NPPD in dealing with the FPC to get the action and decisions necessary for a resumption of construction of the Gentleman plant. A review of decisions and activities in this matter suggests that actions and efforts to resolve the problem have been very slow in coming, and points out the need for expediting any and all remaining procedures in the interests of the hundreds of thousands of citizens and electrical users of the State of Nebraska.

The new NPPD Gerald Gentleman plant is to be a coal-fired steam electric generation facility that in no way would hinder or interfere in the operation of the North Platte-Sutherland Project No. 1835. It is being built near the Sutherland Reservoir, which is part of the NPPD hydro-electric project originally authorized by the FPC. The Federal Power Act and subsequent power generation and environmental legislation in no way place authority over licensing of steam electric generation facilities within the FPC. However, the FPC has become involved in the Gerald Gentleman plant because of the location by NPPD of part of the plant facilities within boundaries of the older hydro-electric facilities over which the FPC has jurisdiction, and because of plans by NPPD for use of water within the Sutherland Reservoir for cooling purposes at the Gentleman plant.

Work on the Gerald Gentleman plant was halted late last year when the FPC acted in favor of a case brought by the Sierra Club, and ordered NPPD to stop all construction. Environmental interests have been blocking construction of the plant in an attempt to force NPPD to install multimillion dollar scrubbers that some contend would further remove air pollution by-products from the plant's operation. NPPD had prepared a voluminous environmental impact study on the plant, and both the power district and the Nebraska Department of Environmental Control have indicated that the construction of the plant as planned by NPPD will meet environmental quality standards.

The Sierra Club first attempted to block the Sutherland construction within the State of Nebraska, but the courts and the Nebraska Department of Environmental Control upheld the NPPD construction plans as meeting environmental quality standards. Environmentalists next attempted to get the Federal Environmental Protection Agency involved, and the Nebraska Department wrote the EPA that the scrubbers had not been proven efficient and effective, and that tests to date indicated they would require a shutdown of generating facilities much of the time for maintenance and repairs. The Nebraska Department of Environmental Control, which is the state agency authorized and delegated the authority over environmental legislation and regulations by the Federal Environmental Protection Agency, further indicated that the plans for construction and operation of the Gerald Gentleman plant were in compliance with Federal environmental protection standards, and that the plant would meet minimum Federal requirements when put into operation. The Environmental Protection Agency took no action and in no way became involved in an effort to stop the construction of the Gentleman plant.

Finally, in its case with the FPC, the Sierra Club was successful in getting a stop order on construction on the grounds of the proximity of the Gentleman plant to the older approved hydro-electric plant over which the FPC has authority. However, in late 1973 and early 1974, NPPD filed requests with the FPC to have the original boundaries of the Sutherland project revised and to allow NPPD use of the water in the reservoir for cooling purposes in the new Gentleman plant. Then, when the FPC ruled in favor of the Sierra Club last year, and had not yet acted on the NPPD requests, the Nebraska Congressional Delegation filed a petition to intervene out of time, and asked that the FPC act on the NPPD requests.

Since the filing of a petition to intervene out of time by the Nebraska Congressional Delegation in November, 1974, and December order of the FPC granting the intervention and denying a NPPD rehearing application and setting dates for hearings, proceedings in this matter have now progressed to the stage of the first hearings to be held on April 8, 1975.

The Nebraska Congressional Delegation has already written the Commission urging that all efforts be made to expedite the studies and activities at the staff level which are necessary for completion of required environmental impact and other positions. I have corresponded with the Administrative Law Judge relative to submitting a statement at the April 8, 1975, hearings.

I firmly believe that the paramount concern and effort of the FPC should be to proceed with action on the applications of NPPD for changing the boundaries of the Sutherland hydro-electric project and for use of reservoir waters for cooling operations in the Gerald Gentleman facilities. Favorable action on these applications would resolve the problem most expeditiously and at the least inconvenience and cost to the Nebraska Public Power District and, ultimately, to the people and electrical users of Nebraska.

The relocation of the plant facilities, as already authorized by the Board of Directors of Nebraska Public Power District, would allow for resumed construction on the Gentleman plant and is intended to minimize further delay in getting this plant constructed and in operation. However, this relocation will be at considerable additional expense to NPPD and the people of Nebraska. The delays already experienced in this matter have so complicated it that NPPD must now be cast in a position of weighing one alternative against another on the basis of which will involve the least additional cost of millions of dollars. The relocation of the plant facilities has been estimated to cost up to $10 million, while a year's delay in completion and operation of the plant has been estimated at up to $35 million in lost revenues and additional power purchase requirements by NPPD.

The quickest relief and simplest solution to the problem would be for the FPC to act at once on the applications of NPPD so that on approval of the applications, relocation would not be necessary, and construction could be resumed for earliest possible completion from this time.

In this time of high inflation, skyrocketing construction and material costs, and energy shortages, it is imperative that projects such as the Gerald Gentleman plant be completed as soon as possible. Where environmental standards have been met and all steps necessary for construction of the Gerald Gentleman plant have been completed, the FPC should not hesitate to proceed accordingly on the requests of NPPD.

I urge the FPC to act on those requests and applications, and to take every step necessary to expedite the processing required for final approval of this improtant project which is so vital to the electrical needs of the State of Nebraska.

Sincerely yours,

CARL T. CURTIS,
U.S. Senator.

FEDERAL POWER COMMISSION,
Washington, D.C., September 30, 1975.

Hon. CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CURTIS: This acknowledges your letter of April 4, 1975, in which you commented on the application filed by Nebraska Public Power District (NPPD) for use of project lands and waters in connection with the construction and operation of the Gerald Gentleman steam electric generating facilities. Please excuse the delay in responding to your letter.

Your letter will be treated as a statement of position and can be presented for inclusion in the record on which the Commission will base its decision in these consolidated proceedings.

Very truly yours,

KENNETH F. PLUMB,
Secretary.

STRIP MINING IN DEATH VALLEY

Mr. CRANSTON. Mr. President, I would like to share with my colleagues

today my feelings on the strip mining situation in Death Valley National Monument, in California, as I expressed them this week in hearings of the Interior Committee, chaired by the distinguished Senator from Montana (Mr. METCALF).

The Senator is to be commended for his early response to the revealed threat of environmental degradation in a national monument. I am pleased to give my full support to his legislation, S. 2371, a bill to curtail mining activities in six units of the national park system, including Death Valley National Monument.

The people of my State are justifiably proud of the haunting beauty and rich history of this unique and scenic area. But Death Valley does not belong exclusively to the people of one State, or even to a single nation. A substantial number of the 700,000 people who visit the national monument each year are travelers from foreign lands. They consider Death Valley one of the outstanding wonders of the American West, along with Grand Canyon, Yosemite, and Yellowstone National Parks.

Time in Death Valley is measured almost casually in eons and millenia. Events that took place there 10,000 years ago are considered "recent" in the geologic time of Death Valley. Great upheavals twisted earth and sand into mountains, deep canyons, and flatlands so long ago that human minds are hard-put to imagine it. It is the hottest, driest, and lowest place in the Western Hemisphere. For thousands of years the forbidding landscape has stayed the hand of man. Even today it is possible in Death Valley to stand alone and imagine what the world looked like before life itself. Yet the desert is a fragile thing, and does not repair itself easily. Trails left by wild burros leave their imprint for decades. A crude manmade road will last centuries.

In considering this legislation, I asked the committee to think of our stewardship responsibilities with two facts in mind: First, that the people of the world treasure this unique resource; and second, that the activities of a human lifetime measure a split-second in desert time, but the results of what we do will last forever.

The U.S. Government recognized the need to protect Death Valley and proclaimed it a national monument in 1933. Because the lore of the prospector and pack mule played such a part in both Death Valley fact and legend, Congress specifically allowed mining in the new national monument. The massive strip mining activities going on today in Death Valley National Monument bear little resemblance to the old 20-mule teams.

I am advised that between 1940 and 1970 no more than $1.5 million in minerals was taken out of Death Valley in any one year, and that the total during those 30 years probably amounted to about $4 million. But between 1970 and 1975, open-pit mining for borates and talc has carved about $15 million a year out of Death Valley. The situation came to a head recently when one mining company staked 44 mine claims at the very edge of the Zabriskie Point scenic lookout.

A member of my staff was in Death Valley last week to view the extent of open pit mining, and to listen to U.S. Park Service personnel and representatives of the major mining companies. I have learned that claim stakes have now been removed from the controversial claims in the Zabriskie Point area—at least for the present. But the question has been raised: To what extent can the Federal Government withdraw land within a national park in order to protect it from mining? An opinion issued by the Solicitor of the U.S. Department of the Interior declares that the authority does not exist under current law to withdraw scenic areas from mineral entry.

Section 1 of this legislation addresses itself to that question. It repeals the 1933 act which opened Death Valley to mining and effectively stops the filing of new mining claims. The bill also directs the Government to study the desirability of acquiring all mining rights in the monument in order to better preserve the monument in the public interest. I support the moratorium. Without it I fear that mining claims could proliferate throughout Death Valley and be developed at will.

There are supplies of both borates and talc outside Death Valley sufficient to meet our national needs for the foreseeable future. I do not see why we should allow the pursuit of short-term profits to inflict permanent environmental damage within a national monument. Further, I do not believe mining is an activity appropriate to the goals of our National Parks System.

Because of the special history and colorful legend of the pick-and-shovel prospector, Death Valley has remained open to mineral entry. But that open door has become a chasm through which bulldozers, hydraulic trucks, and all the heavy equipment of the modern strip miner has driven. Some mining companies have said they are mindful of the public interests at stake in Death Valley. They have said they have no present plans to mine in the immediate vicinity of Zabriskie Point and the other scenic lookouts, though claims have been staked there. History does not justify the public's relying on the spoken word of corporate good intentions in this matter.

Congress must make it clear now and for the future that the Federal Government does have the right—and indeed the duty—to protect Death Valley and other units of the National Park System from mining or any other activity that diminishes the quality of the environment within them. The positions expressed by the Interior Department cast doubt on the Government's rights under existing law. Therefore I think Congress can and should move with appropriate dispatch to secure the visual beauty and environmental security of Death Valley for the general public. I further endorse the moratorium on existing mining claims until the validity of those claims, and the public interest in acquiring them, can be determined.

THE PANAMA CANAL

Mr. FANNIN. Mr. President, for the past 11 years, the United States and Panama have been discussing the possibilities of a new relationship between our two countries with regard to the Canal Zone and the Panama Canal. Ambassador Ellsworth Bunker just returned from yet another round of negotiations on reduced U.S. sovereignty in the Canal Zone. Major obstacles to the acceptance of a draft treaty still exist, both for Panama and the United States. Citizens of both countries are dissatisfied with reports about the terms of a new treaty and the governments of both countries cannot agree on the authority of each to administer and defend the canal and Canal Zone.

A followup round of treaty negotiations will begin in October. It is my understanding that they will cover no new proposals, but will be conducted for the purpose of working out details of certain agreed upon provisions. The major substantive obstacles to conclusion of a new treaty arrangement are disagreements over administration of the land and water within the Canal Zone, the amount of terrain necessary for adequate defense of the canal and the duration of any new treaty agreements. These are essentially the same problems which canal treaty negotiators have been dealing with for the past 11 years.

Throughout the long debate over U.S. sovereignty in the Canal Zone, it has been my conviction that the United States should retain the rights and sovereignty designated under the Hay-Bunau-Varilla Treaty of 1903. I have not changed my mind on this issue and have become more assured with the passage of time that the Government of Panama is not capable of providing the military might or the national will to keep the canal open to international traffic.

Recent demonstrations by Panamanian leftist students which damaged the U.S. Embassy in Panama and a blockade of Canal Zone entrances by Panamanian workers are pertinent instances of instability within Panama. The students broke windows and defaced our embassy because they were dissatisfied with what they determined to be the slow pace of negotiations for a new canal treaty. While the students were wreaking their violence, the Panamanian National Guard stood by and watched rather than protected our embassy. They Panamanians clearly failed in their duty to protect the U.S. Embassy in Panama. If Panama's armed forces cannot be counted upon to carry out their obligation to guarantee the security of foreign government property in their capital city, I doubt they can be counted upon to protect and defend a waterway of the international economic importance of the Panama Canal.

This year the Congress has been quite active in attempting to delay the conclusion of a revised Panama Canal treaty. Senate Resolution 97, which calls for continued, undiluted U.S. sovereignty in the Canal Zone, has the support of 37 Senators. This is enough support to defeat a new and unacceptable Panama Canal treaty if one is prepared and pre-

sented to the Senate for ratification during the 94th Congress. A House amendment to the State Department appropriations bill for fiscal year 1976 prohibited the use of funds

. . . for the purposes of negotiating the surrender or relinquishment of any United States rights in the Panama Canal Zone.

The Senate version of the bill did not include a cutoff of funds so a compromise position was worked out, but it is not the strong demand for continued U.S. sovereignty which we conservatives had hoped for. It merely puts the Congress on record as being concerned about negotiations over the Canal and Canal Zone and insists that treaty negotiators protect the "vital interests" of the United States. "Vital interests" are left undefined and the compromise does not include language mandating the retention of traditional U.S. services and responsibilities in the Canal Zone.

It is obvious to me that Panama Canal treaty negotiations will continue and that a draft treaty will be presented to the Senate for ratification at some future date. I will continue to oppose the relinquishment of our sovereignty over the Canal Zone and the Panama Canal. Under our Constitution all treaties must be ratified by the Senate and ratification occurs only if two-thirds of the Senate votes affirmatively.

Since the Congress has been unsuccessful in restricting Panama Canal negotiations under the appropriations process, our future efforts to defeat a new treaty relationship must come at the time when the Senate is called on to ratify a new treaty. Senate rejection of a treaty is clearly the best legal method for rejecting an agreement which would dilute U.S. control and sovereignty over the Panama Canal and Canal Zone.

Already, I am on record opposing any relinquishment of U.S. sovereignty over the Panama Canal or Canal Zone. I signed Senate Resolution 97 last January and the Byrd amendment denying funds for the conduct of further negotiations and I will continue to speak out against any revision of our relationship with Panama in the Panama Canal Zone.

FACING THE THREAT OF HUNGER

Mr. HUMPHREY. Mr. President, millions of people throughout the world are starving. One-half of the world's population is malnourished. But, according to leading food scientists, famine is not inevitable. In an October 3 article, David F. Salisbury of the Christian Science Monitor presents the viewpoints of three leading food experts, Dr. J. George Harrar, Lord Ritchie-Calder, and Dr. Nevin S. Scrimshaw.

I agree with these gentlemen that feeding the hungry must be made a high priority. We must encourage world scientists to develop higher yielding varieties of seeds. We must encourage them to establish improved agricultural research centers in the third world. We must encourage them to develop alternative food sources.

In this regard, we also must encourage the leaders of the developing nations to increase food production. Roy D. Laird, a political scientist, addresses this issue in a September 26 article in the Christian Science Monitor. Most of the world's unused agricultural land is in third world countries which "practice agricultural policies which serve only to perpetuate subsistence farming."

In addition, food surplus nations such as the United States and Canada must develop food and agricultural policies which include a reserve program to deal with world food shortages. In recent years we have called on our farmers to go all out in production, but we have not been willing to have the Government share in the risks.

Mr. President, I ask unanimous consent that the aforementioned articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

MUST MILLIONS SOON STARVE?

(By David F. Salisbury)

CAMBRIDGE, MASS.—Must millions starve in the coming years?

Not if the nations of the world give the effort to feed the hungry a higher priority and refuse to accept prophecies of doom which are so prevalent today, say three food experts.

Dr. George Harrar, president emeritus of the Rockefeller Foundation; Lord Ritchie-Calder, prominent interpreter of science and UN adviser; and Dr. Nevin S. Scrimshaw, head of the Massachusetts Institute of Technology (MIT) food science department talked of efforts to use science and technology to help feed the world's increasing billions.

They argue that mankind's ingenuity is equal to the task if the people and politicians of the world stand behind the scientists and all learn by past mistakes.

In the past year there have been repeated statements that the attempt to use science and technology to increase world food production—the green revolution—has failed.

Dr. Harrar, who helped foster much of this research through the Rockefeller Foundation, disagrees—while admitting his bias. He feels it has proved its worth, although there are many problems remaining.

One criticism of the green revolution is that its "miracle grains" needs intensive irrigation, fertilizers, and pesticides. This form of agriculture depends on ever-more expensive petroleum.

"We assumed that fossil fuels were going to continue to be cheap," the senior scientist says, "I guess we were very derelict. . . ."

Yet, with more ingenuity and a shift in priorities, these problems can be overcome, Dr. Harrar feels. Pest-resistent strains and those which use little water are under development, he says.

"We are just at the beginning of moving from a purely engineering concept of agriculture to a biological one," observes Lord Ritchie-Calder. Understanding how plants operate (the photosynthetic process) holds great promise for the future, he believes. Already new hybrid crops have shown that yields are not limited by unalterable factors, adds Dr. Harrar.

Science is capable of continuing "marvels" he claims, but he is worried about humanity's ability to make use of these discoveries.

"Homo faber (man the toolmaker) has outrun homo sapiens (man the thinker)," quips Lord Ritchie-Calder. However the British writer is optimistic about the situation "if we get some common sense." He argues that pessimism may be self-fulfilling.

"Generally what we have done 'with people' has been successful while we have done 'for them' has failed," he says. For this reason he supports setting up agricultural research centers in the third world. This is just now being done for research into high-protein corn.

According to Dr. Scrimshaw, studies have shown that this corn is as nutritious as milk. In his speech he lists unconventional forms of food which can, and he feels must, be developed.

These include tailoring cereals so they have the bean's ability to get nitrogen from the air instead of from increasingly expensive fertilizer, processing "trash fish" into a form acceptable to the public, and growing microbes on various agricultural and industrial wastes to use for animal feed.

Lord Ritchie-Calder has his own ideas about some unconventional food sources which have been overlooked.

He points out that the Seri Indians in Baja California have lived for hundreds of years by harvesting a grain which grows in the ocean off desert areas. This aquatic grain, known as eel grass, could provide food without requiring arable land or fresh water.

Animals like the gazelle, a large South American rodent called the capybara, and the hippopotamus have many possible benefits as livestock.

"Before we sit down at the console of the Doomsday Machine and decide which buttons to press, which races are expendable . . . , let us face the facts . . . as challenges to our imagination, our ingenuity, our managerial competence, and our humanity," Lord Ritchie-Calder said.

HOW HUNGRY LANDS CAN EAT

(By Roy D. Laird)

Any ultimate answer to the threat of massive world starvation must come from a resolve by the leaders of the developing states to adopt policies which will enable their people to feed themselves. This was the most important conclusion to be drawn from a conference on agricultural modernization, which was held in Urbino, Italy, during the summer. Specialists from 13 European and North American countries participated.

Not even the communist delegates spoke against the observation that although food aid will continue to be important, the food-surplus-producing nations cannot feed the world's hungry.

Half of the world's population is malnourished. Most of the hungry live in the developing nations of Asia, Africa, and Latin America. Even if the food-surplus-producing, developed nations could produce food in the quantities needed by the world (and they cannot), problems of transport, storage, and distribution preclude such exports from being a long-run solution.

According to Food and Agriculture Organization data, the developing nations have increased food production some 33 percent since the early 1960s. But population growth has held output increases per capita to only 2 percent as of 1974, and that tiny increase is a decline from the peak advance of 4 percent in 1970.

Still, if the population bomb can be defused, there is sound reason for hope. Estimates are that less than half the world's potential acreage is now cultivated. Most of the world's unused agricultural land is in the developing nations.

Prof. D. Gale Johnson, of the University of Chicago pointed out to the delegates that the levels of agricultural advance in the developing countries—particularly in the crucial realm of yields of grain per hectare (2.47 acres)—is only at levels achieved in the West in the 1880s.

Grain, especially wheat, is the most important world crop. Our own calculations comparing production achievements for wheat underline Professor Johnson's crucial point.

When the production achievements of the combined U.S. and Western European output of wheat are compared with that of the totals for Latin America, Africa, and Asia for the years 1971–72–73, the following picture emerges:

3-year wheat averages:	*Developed*	*vs. developing*
Million hectares sown	36.7	85.8
Yields, tons/hectare	2.6	1.1
Million tons produced	96.5	95.2

In aggregate, the weather in the developing nations may not be as favorable as it is for the U.S. and Western Europe. However, weather alone does not explain the fact that, on less than half as much sown area, the developed nations produce as much wheat as do the developing nations.

National poverty, which inhibits agricultural investments, is a serious problem, but far too often it is an excuse rather than a real cause for unproductive agricultural policies.

In a recent address, Joseph Willet of the USDA's Foreign Agricultural Research Servic underscored a tragic reality. As of 1965, little more than one-tenth of the world's public expenditures on agricultural research was spent in the developing countries. Most developing nations could significantly increase their investments in food production.

The colleagues at Urbino agreed that agricultural research, coupled with increased farmer education—to exploit the research findings—has been the key to the Western agricultural miracle since World War II. The rate of agricultural production advance has surpassed the rate of industrial growth in the developed nations.

Delegates who had observed agriculture in the developing nations retold an old story. Many, perhaps most of such nations, impose policies on their farmers that amount to disincentives for increasing production. India was cited as an example where always scarce hard currency is spent for large grain imports. Yet, internally, black markets in food abound in the cities, while the farmers often are not paid enough for their grain to make it profitable for them to purchase fertilizer, even when it is available. Yields remain far below potential.

Farmer educational programs are woefully inadequate for training illiterate peasants to utilize modern techniques. In sum, far too many of the developing nations practice agricultural policies which serve only to perpetuate subsistence farming. However important the green revolution, with its stress on higher-yielding varieties of seeds, it is no solution in itself.

Modernization and the achievement of high standards of living are too often thought of only in terms of urban industrialization. Yet, without significant rural change as the essential base, where will the urban workers get the bread which sustains human survival? Massive starvation will be averted only if the developing nations' leaders are able and willing to place priorities where they belong.

DEFENSE ASSISTANCE FOR CHINA

Mr. TAFT. Mr. President, I would like to bring to the attention of my colleagues an article in today's Washington Post entitled, "Chinese Debate on Moscow Relations Has Washington Impact."

The central and very important point of this article is that there appears to be a powerful faction in the Government of the Peoples' Republic of China which would like to reestablish a Soviet-Chinese alliance. The basis of this faction's desire is largely a perceived need for a source of modern arms for defense. Needless to say, given the current Soviet attitude toward the United States, such an alliance would have to be directed against the United States.

History indicates that the establishment of such a Soviet-Chinese alliance would be followed by Soviet adventurism in the West. Traditionally, Russia—Tsarist as well as Soviet—has either been active in the East while putting the West "on ice," or she has made an accommodation in the East and become expansionist in the West. At least to some degree détente to the Russian may be a new case of "putting the Balkans on ice"—of seeking an armistice in the West to concentrate attention on Eastern problems. If that is true, a rapprochement with China would probably lead to new Soviet probes against the West.

If that occurred, the West—which is comparatively weaker today than it was when it last faced Soviet adventurism on a broad scale, in the Khrushchev era—could be in serious trouble. Two major power centers would be united against one, and we would be the one isolated. That would be a diplomatic disaster or worse.

Accordingly, as I have said repeatedly before, we should be prepared to consider requests from the People's Republic of China for such defensive arms as she may believe herself to require to deter potential Soviet aggression. We must make it clear to those in China who are most interested in building a modern defensive force that there is an alternative to the Soviet Union, as far as a source of modern defensive weapons is concerned.

The Post article notes that there are some in Washington, particularly in the executive branch, who dislike any idea of the United States supplying defensive systems to China, or even being willing to study requests for such systems. Apparently the fear is that discussion of this possibility will disturb relations with the Soviet Union. I reply that the Soviet Union is today by her actions, not just by words, disturbing those relations. In particular, she is building an enormous and powerful navy that can only be understood as an offensive, not a defensive, force. This navy bears no relationship to natural Soviet defense requirements, for the Soviet has little at sea to defend. It can only be seen as a deliberate threat to the sea lifelines on which the West depends. With the Soviet Union taking such an action, so clearly offensive in character, how can anyone in the United States be accused of disturbing prospects for détente by seeking to maintain the world balance of power?

I urge my colleagues to think about this issue seriously. In my view, the question of our relations with China is one of the most serious foreign policy issues we face at this time. President Ford is soon to visit the Peoples' Republic, and I hope he will have the full support of this Chamber in expressing to the Government of the Peoples' Republic our understanding of the objective circumstances which necessitate the acceleration of the development of better relations between the Peoples' Republic of China and the United States.

I ask unanimous consent that the article I have mentioned above be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 9, 1975]

CHINESE DEBATE ON MOSCOW RELATIONS HAS WASHINGTON IMPACT

(By Victor Zorza)

The announcement that Secretary of State Henry A. Kissinger will travel to Peking this month has given a fillip to the U.S. debate on China policy that has long simmered under the official surface.

Kissinger will prepare for President Ford's visit to China and the issue is whether the United States should make a number of concessions to the Chinese leaders at that time.

Some voices in Washington are urging that military and economic aid be extended to China to strengthen it against the Soviets. Some even seek efforts to work out an accommodation between Taiwan and the Communists.

Kissinger whose major concern is to preserve detente with the Soviet Union, is said to fear that far-reaching concessions to China could damage the network of understandings with Moscow.

Some of his critics within the administration fear that failure to establish a closer relationship with Peking could be used by pro-Soviet elements in the Chinese leadership to resume movement toward a reapproachment with Moscow.

Many of the arguments in the debate have been set out in the current issue of the journal Foreign Policy by Michael Pillsbury, a Rand analyst whose strong advocacy of a closer relationship with China has provoked considerable annoyance in high quarters.

These expressions of displeasure have only served to draw attention to the Washington debate, and have caused Soviet analysts to study the article for clues of U.S. policy disagreements—in much the same way that Western analysts look for clues between the lines of the official Soviet Communist Party newspaper Pravda.

One recent contribution to the current Chinese leadership debate makes it clear that a powerful faction is urging an end to the Sino-Soviet conflict. Its argument may be deduced from an attack on the pro-Soviet faction appearing in Peking's main paper, the People's Daily.

The "capitulationist," as the People's Daily calls them, want to surrender to the Soviet Union some of the borderlands claimed by the two countries, and to revive a military alliance under which the Kremlin would provide modern weapons to China and even extend a nuclear umbrella over it.

The People's Daily article, which is a review of "capitulationist" attitudes in Chinese history from two thousands year ago to the present, relies heavily on the allegorical "code" used in Peking leadership debates in recent years. But it comes closer to identifying current policy issues than any other article of this kind.

The most recent "capitulationist" to be identified by name is Lin Piao, Mao Tsetung's heir who apparently was killed in 1971, the article recalls, while fleeing to the Soviet Union after an attempt to enlist Moscow's aid against Mao. But the current political relevance of the article comes from its stress on Lin Piao's attempt to get modern Soviet arms.

At every stage of Mao's conflict with Moscow, China's defense establishment has tried to moderate the dispute in order to ensure the continued supply of Soviet weapons, which alone could give it security.

This was so under Lin Piao as defense

minister, even though the previous defense minister, Peng Te-huai, had been purged for the same "military deviation." Early last year Peking sought once again to wipe out the military deviation, but a series of press attacks on the military since then has made it clear that the operation was not wholly successful.

The People's Daily article gives some inkling of the military's present demands. On the one hand, it says, is Mao's view that people, not weapons, are the decisive factor in war.

On the other hand, it derides the view of those Chinese military who claim that "we cannot depend on the infantry, but have to rely on the air force, atomic weapons, and missiles." Where would they get them? The answer is given by condemning those who want to "work in collusion with people of power and influence in neighboring countries"—a clear reference to the Soviet Union.

It recalls that Lin Piao wanted to restrain the "excesses" of Peking's anti-Soviet policy, and that he wanted to enlist Soviet strength against hostile forces "abroad"—the United States.

Lin Piao's 1971 campaign coincided with the secret debate inside the Peking leadership about the opening to the United States, has become clear after the Mao-Nixon meeting. There have been several similar debates since then and they have usually coincided with attempts to speed up the development of Chinese-U.S. relations.

The inroads of age on Mao that have been reported by Western leaders who have seen him recently and are evident in photographs now pose with a new urgency one of the most important foreign policy issues: Is a Sino-Soviet reconciliation possible, and, with it, a realignment of the world's geopolitical relationships comparable to that produced by the emergence of the Sino-Soviet dispute in the 1950s

The evidence for the existence of a powerful Peking faction favoring reconciliation with Moscow is even more esoteric than the material available in the 1950s. The People's Daily article is only one part of a large collection of facts pointing in the same direction.

The strength and bitterness of its attack on the "pro-Soviet" faction shows how powerful that faction is, and how greatly Mao fears its victory after his death—or perhaps even before it.

PROTECT AMERICA'S FISHERIES NOW

Mr. JACKSON. Mr. President, I am pleased that Congress is acting rapidly on much-needed legislation to protect America's fishery resources and the American fishermen who earn their livelihood by harvesting those resources.

The Committee on Commerce has reported S. 961, which I cosponsored, and I expect the Senate will pass it soon. You will recall that the Senate passed a similar bill last December by a vote of 68 to 27.

The House of Representatives is expected to take up this afternoon the companion measure, H.R. 200, introduced by Representative STUDDS of Massachusetts.

Representative STUDDS and my good friend and colleague, Senator MAGNUSON, have demonstrated real leadership and foresight in their work on this legislation.

S. 961, the Magnuson Fisheries Management and Conservation Act, would extend the contiguous fisheries zone of the United States to 200 nautical miles, and would give the United States management authority over anadromous fish spawned in our waters throughout their migratory range.

Much of the overfishing off our coasts is caused by large, highly efficient foreign fleets—heavily subsidized or actually owned by foreign governments. While this has been going on for 30 years in the Pacific Northwest, it was not until the late 1950's and early 1960's that the rest of the Nation began to feel the pressure from growing numbers of foreign fishing trawlers. A good example is the New England fishing grounds. Before 1960, the Georges Bank fishing area was used exclusively by U.S. fishing vessels, except for a few Canadian fishermen.

In 1960, Soviet fishing vessels reported taking 68,000 tons of fish off Georges Bank. By 1965, Soviet exploitation had expanded to the Continental Shelf area of Georges Bank down to the Chesapeake Bay and their catch reached over a half million tons, far in excess of the U.S. catch. By 1970, several other countries had joined in the harvest and the foreign take grew to more than 1 million tons, far in excess of the allowable harvest recommended by the scientists of the United States and other countries. The U.S. share began to decline and today our fleets take only about 12 percent of the catch in the southern New England area and only 10 percent from the Georges Bank area. In 1960, the United States took 92.9 percent of the total catch off the Atlantic coast. By 1972, the U.S. share of the total catch had been reduced to 49.1 percent.

It is clear that the Russians are a primary cause of the overfishing in the New England area. I do not believe that New England fishermen shall be put out of work or our coastal fisheries resources destroyed simply because we want to get along with Russia or any other country. Détente should be based on mutual accommodations and respect for each other's national interests, not on giveaways of American natural resources such as fish or grain.

A healthy fisheries industry is a vital asset for any State, and any nation. Earning a living from the water is a way of life; a rugged, vigorous, challenging way to make a living. There are enough dangers inherent in such a life; the Government should not add to them by ignoring this opportunity to help an industry which has the capacity to harvest a renewable crop and feed people.

Unfortunately, the Ford administration continues to oppose enactment of S. 961. The State Department says that congressional action at this time would be inappropriate because it might interfere with their objectives in the Law of the Sea Conference now underway. In my view, an adverse impact on U.S. interests will not take place if Congress passes this legislation. The nations of the world know our fishery position. Indeed, the State Department has endorsed the concept of a 200-mile economic zone.

That Congress would seek to confirm our position should be no surprise given the well-known problem of overfishing throughout the world. A vast majority of coastal nations concur with the 200-mile limit concept. Most agree that action to protect fish is needed now. The fish will not wait for the lengthy process of negotiation, ratification, and implementation.

I believe that the vote in the Senate last year indicated to the Department of State that this body considers fisheries to be one of the most important issues being considered in the Law of the Sea negotiations. Fisheries simply cannot wait for the world to become educated on the nuances of the "archipelago theory" or the intricate facets of manganese nodule mining. We need immediate attention to the fish depletion problem. Time is running out. Previous attempts to get all nations which fish in a certain area to agree on an effective international conservation treaty have failed and it has been very difficult to turn around the momentum of overfishing in previous years through the treaty process.

The only way to stop this spiral is to provide for a different management scheme, one which relies upon the incentive of coastal nations to maintain a constant fish resource off their shores. This is what S. 961 does, and this is why I vigorously urge its enactment.

We need to extend our jurisdiction in order to manage and conserve valuable marine resources presently threatened by overfishing. The list of fish stocks off our shores which are being depleted grows each year. Scientists have now concluded that approximately 25 different stocks of fish are at such a low level that they are either considered to be depleted or threatened with depletion. It is because of the rapid decline of these species of fish that the United States must exert management control over a 200-mile zone, a zone which roughly encompasses nearly all of our continental shelf and nearly all of our important coastal species.

Patterned after U.S. fisheries position put forth in the U.N. Law of the Sea Conference, S. 961 would provide this Nation with the management authority needed to enact and enforce conservation measures. It is an interim measure and will terminate automatically at the time an acceptable international agreement on the question of fisheries jurisdiction is forthcoming from the United Nations Law of the Sea Conference and such agreement is either in force or is provisionally applied.

A coastal nation and its fishermen have a great incentive to protect the fish off its shores by careful management and harvesting. On the other hand, highly mobile foreign fishing fleets can move elsewhere when they have "fished out" our coastal stocks. With management authority out to 200 miles, the United States will be able to control the massive foreign fishing effort that it cannot now control. Most importantly, this bill will provide the United States with a much stronger bargaining position when dealing with long-distance fishing nations whose fleets operate near our shores. It will give us the kind of leverage we need to protect our fish stocks.

It is important to remember that this legislation will not prohibit other nations

from fishing in the 200-mile zone. In fact, it would recognize the interests of nations which have traditionally fished off our shores. But it would reserve to the United States the right to manage our offshore fish stocks to assure their best, and most prudent, use.

And in a hungry world, there is a global interest in assuring a continuing supply of protein from the sea.

According to the National Marine Fisheries Service in the Department of Commerce, 20 percent of all marine fisheries in the temperate and subarctic shelf areas of the world—where most of the fisheries are located—are found within 200 miles of the U.S. coasts. In other words, the large stocks of fish inhabiting coastal waters constitute one of the richest natural resources of the Nation.

Despite the presence of this resource, the Department of Commerce, in its draft national fisheries plan, described the following broad trends:

While the world catch continues to increase in response to growing world and U.S. demands for fisheries products, the U.S. catch remains static.

Foreign fishing off U.S. coasts has increased dramatically in recent years with the result that some fish stocks have become depleted.

The United States is becoming increasingly dependent upon imports of fisheries products, a circumstance contributing to the Nation's unfavorable balance of payments.

Large segments of the U.S. harvesting industry are in a chronically depressed state, generally at zero growth or in decline.

Public participation in marine angling and related marine activities is growing steadily and is expected by 1985 to be twice that of 1970.

I am aware that American fishermen who seek tuna and shrimp off other nations' shores are concerned about possible adverse reactions from other nations to extension of U.S. production over the 200-mile limit. While I appreciate their concern, I would point out that other nations are already asserting jurisdiction out to 200 miles. Enactment of S. 961, which expressly recognizes historic foreign fishery interest off our shores, should strengthen our hand in bilateral negotiations with other nations as well as at the Law of the Sea Conference.

I expect that both the Senate and House will pass this legislation by a heavy margin. I hope that the President will sign it, despite the opposition of the State Department. Apparently, our diplomats would rather negotiate until our coastal fisheries are gone, then have us protect them before it is too late.

If the President vetoes the bill, we must override that veto and save our fish. No rational nation could do otherwise.

CALIFORNIA LAWYERS SAY REPEAL PRICE-ANDERSON

Mr. GRAVEL. Mr. President, delegates representing 5,000 California attorneys have voted to ask the Board of Governors of the State Bar of California to urge repeal of the Price-Anderson Act's liability ceiling.

The 500 delegates acted by voice vote on the Price-Anderson recommendation. Their resolution says:

As attorneys who will be representing persons injured in a nuclear accident, we have a duty to press for legislation giving them full compensation. . . . (I)t is apropriate for us to inform the California Congressional Delegation that we favor the concept of removing liability limits.

By a vote of 239 to 233, the delegates also recommended endorsement of the California Nuclear Initiative. This initiative, which will come before the voters of our most populous State next June, requires that the gaps in nuclear safety and the nuclear fuel cycle be filled before we commit ourselves to this power source.

The Santa Clara County Bar Association initiated these proposals, and I wish to commend them. The efforts of attorneys Robert Weeks, Walter Hays, Charles Luckhardt and Read Ambler are especially notable.

Mr. President, I ask unanimous consent that the resolutions adopted by the California delegates by printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTION PROPOSED BY SANTA CLARA COUNTY BAR ASSOCIATION

Resolved that the Conference of Delegates recommends to the Board of Governors of the State Bar of California that the State Bar resquest the California Congressional Delegation to sponsor legislation to ammend the Price-Anderson Act to eliminate limits on total liability.

STATEMENT OF REASONS

When Congress passed the Atomic Energy Act of 1954, it expected private industry to rush forward and start building nuclear plants. Because of the costs and risks involved, however, private industry was very reluctant to respond. To stimulate more favorable response, Chairman Strauss of the Atomic Energy Commission adopted a "stick and carrot" approach. The "stick" was a threat that unless private industry moved into the nuclear field, the government would itself go into the business of producing electricity through nuclear power. The "carrot" was the enactment in 1957 of the Price-Anderson Act.

One of the central features of the Act was an absolute limit of $560 million on the total claims to be paid to all persons injured as a result of a nuclear accident. While this figure seems high, it is pitifully low in relation to the amounts of damage projected by official AEC studies. One such study made in 1957 (WASH–740) predicted that the consequences of a worst possible accident would be 2,300 fatalities, 43,000 radiation injuries, and $7 billion in property damage. WASH–70 was secretly updated in 1965, and the new study estimated that a worst-possible accident in the much larger reactors now being built would leave 45,000 dead, 100,000 injured, and $17 billion in property damage. More recent studies claim that the potential damage is much lower and the odds of a major accident are so remote as to be insignificant. Because the chance is still there, however, the nuclear industry is pressing for retention of the liability limit.

The Act expires in 1977. In 1974, prior to the present major reexamination of nuclear power, Congress actually passed a law extending the Act, but President Ford vetoed it because of an amendment tacked on by opponents which made the effectiveness of the extension dependent upon further Congressional review of the latest safety reports. The debate will be renewed with even greater vigor in 1975 and 1976.

Under the protection of Price-Anderson, existing nuclear plants have been plagued by enormous numbers of accidents and breakdowns, including several causing fatalities to employees, and even more with "significant safety implications." One AEC official said that under the circumstances, the lack of a major accident to date has been largely due to "good luck." In this context, former AEC Commissioner William Kriegsman has stated that phasing out Price-Anderson's liability limits might have a salutary effect on quality control. "Do away with it," he said, "and you'd probably see nuclear valves coming off the assembly line in a lot better shape."

It may be that the consequences of a major accident would be so catastrophic that private industry cannot be required to assume the risk. To relieve even the government of full responsibility, however, is unconscionable. Some writers have even indicated that the liability limit would be held invalid as an unconstitutional taking.

As attorneys who will be representing persons injured in a nuclear accident, we have a duty to press for legislation giving them full compensation. Since the legislation is complex, we need not at this time press for any specific amendment. However, it is appropriate for us to inform the California Congressional Delegation that we favor the concept of removing liability limits.

RESOLUTION PROPOSED BY SANTA CLARA COUNTY BAR ASSOCIATION

Resolved that the Conference of Delegates recommends to the Board of Governors of the State Bar of California that the State Bar endorse the Nuclear Initiative, a copy of which is attached hereto as Exhibit "A".

STATEMENT OF REASONS

"Once a bright hope shared by all mankind, myself included, the rash proliferation of atomic power plants has become one of the ugliest clouds overhanging America. . . ." (David Lilienthal, former Chairman of the Atomic Energy Commission)

As more experience with nuclear plants has been accumulated, serious questions have arisen about the wisdom of our present pro-nuclear policies:

1. Safety

An official AEC study in 1957 estimated that a single nuclear accident, under worst conditions, could leave 45,000 dead, 100,000 injured, and $17 billion in property damage. Federal law now limits total claims to $560 million. A more recent study predicts lower damages and claims the odds to be remote, yet the proponents are still unwilling to give up the liability limit.

2. Waste

Nuclear operations produce large quantities of deadly radioactive waste, including plutonium, one of the most carcinogenic substances known to man, which remains deadly for 500,000 years. There is no proven way to safely dispose of this material.

3. Diversion

In addition to accidental releases, terrorists can release nuclear wastes by attacking them while in storage or transit, or even make their own atomic bombs with only 20 pounds of plutonium and commonly available tools and literature. There are serious unanswered questions as to (1) whether any safeguards can be totally adequate, and (2) whether the proposals such as the establishment of a national nuclear police force are not even more deadly.

With the 1,000 plants planned for the year

2000, protection against the foregoing hazards would require totally error-free design, manufacture, operation, maintenance, and inspection, plus no Acts of God—which everyone knows is an illusion.

For the foregoing reasons, rapidly growing numbers have concluded that we need to slow our headlong rush into the "plutonium economy" until (1) we have better answers to the questions being raised, and (2) other alternatives are more fully considered. Over 450,000 Californians have signed the Nuclear Initiative; similar movements are gaining strength in other states; and Congress is also scrutinizing the issues more thoroughly. Finally, even the strongest proponents of nuclear power emphasize that the issues are moral ones that "must be resolved by the public."

In the context of this controversy, the Nuclear Initiative is a firm but moderate measure. It is not a moratorium; it merely requires the State Legislature to adopt criteria for recognizing nuclear power plants as a permissible land use in California. If industry, meets the standards set by the democratic process, nuclear power can proceed without hindrance.

The moral issue involved was perhaps best summarized by Professor Hannes Alfven, 1970 Nobel Laureate in physics:

"The fission reactor produces both energy and radioactive waste: We want to use the energy now and leave the radioactive waste for our children and grandchildren to take care of. This is against the ecological imperative: Thou shalt not leave a polluted and poisoned world to future generations."

Unless we wish to ignore this imperative, we owe to future generations to provide at least the 5-year reexamination called for in the Nuclear Initiative.

LINE OF BUSINESS REPORTS—A FRUITLESS AND HARMFUL INQUIRY

Mr. HRUSKA. Mr. President, another intrusion by the Federal Government into the free enterprise system is in progress. I am referring to the so-called "line of business" reports that have been sent to certain businesses in this country by the Federal Trade Commission.

The supposed purpose of these reports is to find out how much these companies make in their various lines of business. The reason that the FTC wants this information is very unclear, however. In my opinion—and I have expressed it many times when representatives of the FTC have appeared before the Appropriations Subcommittee on which I serve—this "line of business" reporting requirement is an infringement upon the rights of these firms and an unnecessary addition to the bureaucratic regulations already imposed by the Federal Government. The reports will not yield any information of value. They will produce distorted and confusing information.

The FTC has ordered more than 400 of America's business corporations to file, for the last fiscal year, a list of assets, sales, operating expenses, advertising, and other expenses and operating income to what the Federal agency calls "lines of business."

At a time when President Ford has called for a disengagement by the regulatory agencies in some of their activities, it is very inconsistent that this "line of business" requirement be allowed to continue. It is just one more example of the never-ending encroachment of the Federal Government on the activities of our Nation's private sector.

"Line of business" reporting, its operation, and its consequences, are analyzed very succinctly and accurately in an article by George J. Benston that appeared in the October 1975 edition of Fortune magazine.

According to Dr. Benston:

The FTC expects to be able to document that companies are making very large profits on certain product lines—profits that are hidden within the aggregate numbers of the annual report. The commission says that this information will be useful to labor unions for bargaining purposes. And once these high-profit markets are revealed, or so the argument goes, other companies will rush to get into them, and the new competition will drive prices down. If competition doesn't increase the FTC will look for "barriers to entry" that need to be swept aside by antitrust or other governmental action.

He concludes, however:

It is safe to say that from its questionnaires the FTC has been learning almost nothing of any significance about American industry. It has learned quite a lot, however, about the dreadful difficulties and complications of its own inquiry.

Dr. Benston explains that this Nation's business does not plan to take this new FTC bureaucratic imposition lying down. He says:

At a glance, the FTC's Form LB (for Line of Business) looks like just another irritating feature in the regulation of American business. The usefulness of the exercise is not apparent to the corporations that were chosen. (They include all 137 manufacturing corporations with assets of more than $1 billion, plus the 250 next largest, measured in terms of domestic sales, plus such additional corporations as were necessary to give the FTC at least five firms in each manufacturing category, the two sales leaders in each category, and at least 20 percent of the aggregate sales in each category.) Getting the answers together will cost the corporations at least $10 million, by the FTC's own estimate, and this cost will, of course, be passed along to the consumer in the form of higher prices. Some of the answers aren't gettable at any cost (in such cases, the FTC will accept "reasonable estimates").

Objections of this kind can be raised, however, about a lot of the paperwork Washington is requesting these days. And so most of the corporations on the list plan to file the form and forget it, as they did a similar form last year, when the program began.

But 117 big companies, including Alcoa, Coca-Cola, Du Pont, General Motors, General Electric, and Union Carbide, have refused to file and have been fighting the FTC in court for more than a year now. These companies would agree with the FTC on one point—that Form LB is far from routine. The companies argue that it is an unwarranted invasion of their privacy and say it won't serve any valid governmental purpose.

Mr. President, I could not agree more. So that my colleagues and others interested in this new attempt by big government to harass and subvert private enterprise in this country, I ask unanimous consent that the article, "The Baffling New Numbers Game at the FTC," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE BAFFLING NEW NUMBERS GAME AT THE FTC

(By George J. Benston)

(The author is a professor of finance and accounting at the University of Rochester's Graduate School of Management. He was a member of the panel of outside experts who evaluated the FTC's line-of-business form for the General Accounting Office earlier this year. A certified public accountant, he received his Ph.D. in economics from the University of Chicago.)

On August 20, the Federal Trade Commission mailed a bulky package of documents to more than 400 of the largest manufacturing corporations in the U.S. They were ordered to file, for their fiscal year ending prior to July 1, a breakdown of assets, sales, operating costs, "media advertising expense," other expenses, and operating income—all according to what the FTC calls "lines of business." For the purpose of defining these lines of business, the FTC gave the corporations 274 categories to choose among, ranging alphabetically from "agricultural production-crops" to "woodworking machinery."

At a glance, the FTC's Form LB (for Line of Business) looks like just another irritating feature in the regulation of American business. The usefulness of the exercise is not apparent to the corporations that were chosen. (They include all 137 manufacturing corporations with assets of more than $1 billion, plus the 250 next largest, measured in terms of domestic sales, plus such additional corporations as were necessary to give the FTC at least five firms in each manufacturing category, the two sales leaders in each category, and at least 20 percent of the aggregate sales in each category.) Getting the answers together will cost the corporations at least $10 million, by the FTC's own estimate, and this cost will, of course, be passed along to the consumer in the form of higher prices. Some of the answers aren't gettable at any cost (in such cases, the FTC will accept "reasonable estimates").

Objections of this kind can be raised, however, about a lot of the paperwork Washington is requesting these days. And so most of the corporations on the list plan to file the form and forget it, as they did a similar form last year, when the program began.

But 117 big companies, including Alcoa, Coca-Cola, Du Pont, General Motors, General Electric, and Union Carbide, have refused to file and have been fighting the FTC in court for more than a year now. These companies would agree with the FTC on one point—that Form LB is far from routine. The companies argue that it is an unwarranted invasion of their privacy and say it won't serve any valid governmental purpose.

FTC spokesman call the line-of-business report "our most important program." Chairman Lewis A. Engman asserted last year that it "will not only usher in quantum improvements in existing knowledge about the nation's economic performance, but will, we predict, initiate significant strides toward a more competitive and more dynamic national economy."

TILTING AGAINST "BARRIERS"

The FTC expects to win its case in the federal courts, which are generally reluctant to overrule the regulatory agencies. Once the holdout companies have been compelled to file and its data base is complete, the FTC expects to be able to document that companies are making very large profits on certain product lines—profits that are hidden within the aggregate numbers of the annual report. The commission says that this information will be useful to labor unions for bargaining purposes. And once these high-profit markets are revealed, or so the argument goes, other companies will rush to get

into them, and the new competition will drive prices down. If competition doesn't increase, the FTC will look for "barriers to entry" that need to be swept aside by antitrust or other governmental action.

In recent years the FTC has harbored some quaint theories about those barriers to entry, and it wants to test its theories against the new data. One theory is that a massive advertising budget for a consumer product constitutes a barrier to entry because potential competitors will hesitate to risk a comparable sum to launch a rival brand. The FTC has not said that such a barrier amounts to an illegal restraint of trade within the meaning of the antitrust laws. First it needs to prove that such barriers are effective—that is, that they really do keep out competitors and result in large profits.

END RUN ON A RIDER

The FTC drew up its first line-of-business form in 1973, but it was killed by President Nixon's Office of Management and Budget, which had the authority to rule on whether questionnaires of this sort are reasonable. The FTC's friends in Congress, lead by Philip A. Hart of Michigan, chairman of the Senate subcommittee on antitrust and monopoly, then made an end run around OMB. They attached a rider to the Alaska pipeline bill that transferred the authority over regulatory-agency forms to the General Accounting Office. The FTC drew up a new questionnaire and cleared it with GAO (whose policy is to approve such forms unless the information is available elsewhere or can be gathered less expensively).

It is safe to say that from its questionnaires the FTC has been learning almost nothing of any significance about American industry. It has learned quite a lot, however, about the dreadful difficulties and complications of its own inquiry. The first lesson, apparent from the start, is that the FTC's line-of-business categories are too broad to be of much use in assessing competitive conditions in markets for specific products.

The categories were taken, with some adaptations, from the Department of Commerce's Standard Industrial Codes. One of them, knit-outerwear mills, will serve as a fair sample of them all. It includes ski suits, bathing suits, bed jackets, neckties, and wristlets. If the FTC data should show that profits are high in this "line of business," should new competitors try to cash in on the bedjacket boom? They would be taking quite a gamble. Bed jackets might be the one sick product in a thriving group. Alternatively, this whole line of business might be in terrible shape were it not for the boom in neckties. Or perhaps it is in wristlets.

Another category, public building and related furniture, includes, among other products, aircraft seats, church pews, and blackboards. Some categories are more coherent, to be sure—passenger cars, for example, or household refrigerators and freezers. But Dr. Betty Bock, director of antitrust research for the Conference Board, who has studied the FTC categories to see how well they correspond to recognizable markets, has concluded that 88 percent of them contain such a heterogeneous mix of products that the information will merely baffle any businessman or regulator who tries to make use of it.

HOW TO HIDE THE COTTAGE CHEESE

And that is only the beginning of the difficulty. In the course of adopting its form to the realities of the business world, the FTC was forced to concede that corporations rarely, if ever, record their assets, sales, and a detailed breakdown of expenses according to the FTC codes. These are, after all, an invention of government, not of businessmen. A garment maker might well manufacture and market bed jackets as part of his lingerie line. He would have no separate breakdown of costs for bed jackets and so could not pull them out of lingerie (which is the FTC's category for women's and children's undergarments) and report them with wristlets.

The FTC has adopted several strategies for "solving" this problem. If at least 85 percent of the sales and other gross revenue of a product line belong in one FTC category, then all of the assets, sales, and expenses for the product line may be reported in that category. For example, if bed jackets accounted for less than 15 percent of lingerie sales, they could be lumped in with lingerie. This rule, while sensible, results in a serious contamination of the data. Some manufacturers may report bed jackets in one category, others in another. And the distortions are much worse than the 15 percent rule would indicate.

The hypothetical example below of a two-product dairy illustrates the problem. Cottage cheese is a dairy product (FTC Code 20.04), but because cottage-cheese sales are less than 15 percent of the total, all of the sales, production costs, advertising, net profits, and assets of the dairy may be reported under the FTC code for fluid milk (Code 20.03). Even if the FTC knew that fluid-milk sales were overstated by 15 percent, it could not know that production costs were overstated by 10 percent, advertising by 300 percent, and net profits by 25 percent, or that the profit rate on assets used in making cottage cheese is 30 percent.

Additional problems occur when a company uses its own products in making other products. If more than 50 percent of the output of one line of business is passed along for use by another line of business within the company, the FTC allows the company to report the gross revenue, costs, and assets of both lines under that second line.

And rollbacks are permitted as well. If more than half of the gross revenue of a processing, marketing, or similar operation can be attributed to a manufacturing line, then all of the data may be reported under that line.

Dr. Bock of the Conference Board has demonstrated how these provisions would affect the data reported by one real-life company involved in four of the FTC's lines of business. The company operates an iron and steel foundry (FTC Code 33.02) that makes ornamental iron parts for the company's line of household furniture (Code 25.02) as well as some screw machine products (Code 34.13), in this case nuts and bolts. The furniture and various other products, including nuts and bolts, are marketed by a wholesale trade division (Code 50.01). Household furniture accounts for more than half the company's sales.

NUTS IN THE FURNITURE

The company could take advantage of the 15 percent rule to include the nuts and bolts with the foundry line of business, thereby overstating the foundry's sales by 6.3 percent. Using forward integration, the company could then report the data for the foundry and the nuts and bolts under household furniture, overstating the sales for that line by 26 percent. Using backward integration, the company could lump the wholesale trade division into household furniture, resulting in a 23 percent overstatement for furniture. By using both forward and backward integration, the company could report everything under household furniture. Furniture sales would be overstated by 28 percent, and, of course, nothing would be reported for the other three lines of business.

Dr. Bock has estimated that, merely because of the integration of products accounting for less than 15 percent of a division's sales, the gross revenue for at least one-quarter of the FTC's 274 categories would be misstated by more than 15 percent. In at least half the categories, gross revenue would be misstated by more than 10 percent. With the use of forward and backward integration, the misstatement becomes unknowably worse. And as the dairy example demonstrates, the distortion of other data, such as the rate of return on assets, may be much greater still.

THE PROBLEM OF TRANSFER PRICES

Yet when a company makes products in one division for use by another division and does *not* consolidate the data, a different problem emerges. The problem is what price to put on the transfers. Most companies price goods and services transferred from one unit to others at some variant of cost. But some use a negotiated price, others use market prices, and still others don't bother to price transfers at all.

The FTC's staff is aware of the resultant difficulties. Their initial proposal in 1973 for a line-of-business reporting system stated: "How to handle the pricing of transfers . . . has been recognized almost universally as one of the stickiest problems in line-of-business reporting . . . Given the needs of the FTC, it appears that the use of market prices is appropriate. The use of any alternative procedure would distort the measurement of relative profitability." After some analysis showing that transfer pricing is far from a trivial problem, the FTC concluded: "It follows that the specification of a standard pricing technique is essential."

The FTC found, however, that few companies can price transfers at market. Many of the components made by companies for their own use have no other use, and no outside market. Nor has there ever been any way to say how much a marketing division should "pay" a manufacturing division because there is no way to determine how much each contributes to the success of the product. So the FTC now allows companies to report whatever transfer prices they have been using in their own accounting, or are able to calculate for the report. Somehow (it doesn't say how), the FTC's staff will make adjustments.

It seems likely that many of those high profits that the FTC is trying to focus on will disappear into the overall results of other lines of business. The FTC will have no basis for saying the profits belong somewhere else.

WHO PAYS THE OVERHEAD?

Nor does the FTC have any new solutions for another problem that has long puzzled corporate treasurers: how to assign common costs, such as general and administrative expense, to individual lines of business.

The methods used by companies differ considerably. Robert K. Mautz, a former professor at the University of Illinois, now a partner in Ernst & Ernst, surveyed 227 companies and reported that over 40 percent of those for which such expenses are relevant did not allocate them at all. Those who did used nine different specified methods plus a large number categorized as "other methods." The survey also showed that, on average, common costs (excluding income taxes) equal 124 percent of net profits.

How they are allocated clearly makes a meaningful difference both in reported profits and in the rate of return on assets (the statistic that most interests the FTC). Professor J. Fred Weston of U.C.L.A. analyzed data from six companies and concluded that alternative application of five generally accepted allocation methods yields vastly different rates of return on assets for individual lines of business within the company.

Changing the method alters the rates of return by anywhere from 102 percent to 1,012 percent. Thus any abnormally high rates of return in particular lines of business could be swamped by the allocation method chosen.

It is not possible for the FTC to find a "correct" method of allocating common costs.

These expenditures are made to benefit more than one business activity. It is meaningful to charge them to a specific activity only to the extent that they can be saved if that activity is abandoned. Most accountants and economists agree that common costs are, by their nature, not allocable at all.

Even if the FTC had answers to all these large questions, its data would still be of little value. As most businessmen know, accounting numbers often do not measure economic attributes very well.

Depreciation, for example, measures the write-down of the original cost of an asset over its useful life, according to one of several alternative formulas. The method chosen is usually the one permitting the largest tax deduction. Depreciation does not, nor is it expected to, measure the loss in the economic value of an asset. Advertising and research and development costs are usually charged off immediately (as though they had no future value). Companies generally use historical rather than current values for assets and liabilities, and they value their inventory in different ways.

The organization of a company's records is a function of the company's unique history and business activities, and managements generally recognize the limitations of their own data. They cannot, as some economists seem to believe, "program in" alternative ways of adjusting and organizing this data; the cost would be prohibitive. Due to the great variation in accounting procedures, the expenses and rates of return of one company rarely can be directly compared with those of another. When a number of companies in the same line of business are lumped together, the aggregate numbers are meaningless.

The FTC's staff cannot handle these accounting problems any more than they can handle the common-cost allocation problem, the transfer-pricing problem, or the problems caused by the contamination of the data—even though the original proposal shows that the staff considered solutions to these problems essential in order to get comparable data. The FTC can't solve the problems because the problems are not solvable.

The FTC's "solution" is to let each company "do its own thing." Estimates are permitted. The FTC proposes to correct the data through "sensitivity analyses"—that is, the magnitude of the distortions will be measured by recasting the reported numbers according to alternative accounting methods. But as Mautz of Ernst & Ernst has pointed out, the companies haven't been asked for nearly enough information for such "sensitivity analyses," and it would not be feasible for them to supply it. The old data-processing motto, "garbage-in, garbage-out," still holds.

WHY THE CHIEF OF STATISTICS QUIT

Its validity was recognized by Myron J. Hubler, who came to the FTC in the summer of 1974 as chief of the Division of Financial Statistics. Hubler, a CPA who had worked for large, diversified companies and later was manager of special projects for the American Institute of Certified Public Accountants, was asked to resign in December, 1974, because he wouldn't submit to the authority of the FTC's economists. He charges that they disregarded his complaints about the fundamental accounting problems in the line-of-business data he was responsible for processing.

As he put it in a deposition taken in March, 1975: "I am leaving the Commission at the earliest opportunity because of my concerns with the concept . . . which seems to be that any data are better than no data, and which is shocking to me in such an important program." Hubler said that "the release of such unreliable information" would border on "fraud."

But the line-of-business program seems to be impervious to such attacks. It is in large measure a response to consumer advocates such as Ralph Nader, who charged a few years ago that the FTC was an "ossified" agency. The program pleases the consumerists' allies in Congress, who want more data on the market behavior of big corporations, and aren't picky about the quality.

ECONOMISTS HAVE TO PUBLISH TOO

It also pleases many of the microeconomists who specialize in the study of large industrial organizations. They are looking forward to feeding lots of data into the big computers so that they can test hypotheses about the relationship that profit rates may have to advertising budgets, to research and development outlays, aud to concentration ratios. After all, why should the physical scientists be the only ones to benefit from expensive data-gathering programs? Economists have to publish too.

In this case, they will do so at their peril, because the statistics being gathered by the FTC cannot provide meaningful tests of the hypotheses—as the FTC's economists must know by now. The director of the agency's Bureau of Economics, Dr. Frederick Scherer, is the author of a textbook on market structures that deals at some length with the difficulty of devising market categories so as to include all competing products and exclude all others.

The problem has seldom been summarized better than in the FTC's staff proposal for the line-of-business program in 1973: "Of paramount importance in establishing reporting categories is economic meaningfulness. The individual goods and services produced by the company segments which are included in the category should be perceived by buyers as close substitutes for each other [and] as poor substitutes, or not substitutes at all, for other goods and services."

The FTC never even tried to meet its own standards. That would require thousands of categories, the data for which do not exist and could not be acquired.

When outside economists point out how far the program deviates from the stated criteria, the agency's rejoinder, in paraphrase, is this: "Stop knocking the program, and tell us how it can be improved." FTC staff members have insisted, against all the evidence, that companies do know their true costs and profits for each product, but are determined not to reveal them. The truth is that the FTC set itself a job that can't be done.

If, despite all its flaws, the program goes forward, two sets of events can be expected. One is that the FTC's economists will be compelled to acknowledge the severe shortcomings of the data they have collected. But rather than abandon the program (as they should have done by now), they probably will require more detailed (and hence more expensive) data. It should be noted that their first proposal called for 2,000 companies reporting on 455 categories. The present collection costs, which may seem small to executives of those 228 companies that are complying (particularly when compared with incurring the wrath of a powerful regulatory agency), may be only the nose of the camel.

SOLEMN NONSENSE

The second expectable outcome is that the reported data will be received, when published, as if they were indeed meaningful. Solemn statistical studies will be based on these aggregates of bed jackets and neckties, of aircraft seats and church pews. The limitations and falsities of the numbers will be disregarded, and conclusions will be drawn about the economy and about the performance of various industries. The numbers from individual companies, which are supposed to be kept secret, will leak, and may be useful to competitors, including foreign competitors who are not required to report their data to the FTC. When companies are sued, they may be forced to produce their file copies of Form LB in answer to subpoenas.

Efficient firms will be required to defend themselves from the charge of monopoly. Or they will curb their competitive vigor to avoid censure. And so in the end the line-of-business program will damage economic efficiency, which is what it set out to improve.

UNINSURABLE NUCLEAR POWER

Mr. GRAVEL. Mr. President, on September 23, I had the opportunity to testify before the Joint Committee on Atomic Energy regarding the renewal of the Price-Anderson Act.

I have long opposed the ceiling on corporate liability provided under that act, and I believe the time has come to eliminate that ceiling. The victim of a nuclear accident must have the right to recover full compensation for his losses. Even if nuclear insurance is never needed—and let us hope it is not—the principle of just compensation, assured under the fifth amendment, is compromised by the Price-Anderson liability ceiling.

Mr. President, I ask unanimous consent that my testimony before the joint committee be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

UNINSURABLE NUCLEAR POWER: HOW MUCH RISK SHOULD INDUSTRY SHARE?

(Testimony by Senator Mike Gravel)

Thank you, Mr. Chairman, for giving me the opportunity to testify on H.R. 8631, the proposed extension of Price-Anderson nuclear power insurance legislation.

This committee and the nuclear power industry face a basic and irresoluble paradox in trying to insure nuclear power, because the kinds of risks we take in generating nuclear electricity are simply not insurable.

WHY UNINSURABLE

There are several reasons why nuclear power is uninsurable.

The most obvious is the scale of the possible accident. The committee is, of course, familiar with the government's own various estimates of possible damages in a nuclear catastrophe: $6 billion, $7 billion, $17 billion, conceivably even $280 billion; with outright deaths of 3,400 to 43,000; and contamination of an area the size of California or Pennsylvania.[1]

However unlikely such a nuclear catastrophe might be, with such enormous potential damages, it is not insurable. The testimony which this committee has heard in previous years from the insurance industry bears out this conclusion.[2]

Other factors making nuclear power uninsurable are the far-reaching and long-term natures of the damage that could be done.

If great quantities of radioactive elements escaped into our environment, there would be no way to judge the extent of the cancer cases or birth deformities which might be caused. The health consequences would be incalculable—and recompense would thus be impossible.

Cancer, as in the case in Hiroshima, might appear as late as 20 years or more after the event—in spite of Price-Anderson's ten-year statute of limitations.[3]

And the range over which damage would be inflicted could not be judged. Radioactive

Footnotes at end of article.

carcinogens would be distributed throughout the biosphere and concentrated by some plants and animals in a way completely outside the control of man.[4]

WHO'S HOLDING THE BAG?

So what this committee is deciding is not "How shall we insure nuclear power?". The committee already knows that nuclear power is uninsurable. If it were insurable, we would not be here. Nuclear power would be subject to normal liability laws and there would be no need for Price-Anderson.

What this committee is deciding today, and what it has decided each time it has considered the Price-Anderson Act, is, to put it very bluntly: "Who's going to be left holding the bag?"

If the Indian Point reactor, 24 miles from New York City, suffers a melt-down and a breach of containment, who's going to be left holding the bag?

If the San Joaquin Project contaminates this nation's largest food-producing area, who's going to be left holding the bag?

Back in the mid-1950s, when the insurance problem was first tackled by this committee, the nuclear industry made it very clear who was *not* going to be left holding the bag. They let the committee know that if normal liability were allowed to apply, they would not take the nuclear gamble.[5]

The public, on the other hand, was not wary. And today, it is the public which really carries the burden of nuclear power risks, even though few citizens are aware of it.

PRICE-ANDERSON PROVISIONS

The committee decided that, in the worst nuclear catastrophes, the citizen's Constitutional right to just compensation would be suspended. A challenge to the Constitutionality of Price-Anderson is, incidentally, currently underway in North Carolina.

An arbitrary sum—$560 million, a fraction of the possible damages—would be shared on a pro-rated basis. And even if the victim were to get only pennies to the dollar under this scheme, Price-Anderson would prohibit him from recovering further from the nuclear industry.

What's more, even the $560 million is to be paid mostly by the taxpayer, not by the industry or its insurers. At the present time, $125 million is guaranteed by insurers and $435 million by the federal government.

This federal indemnity is provided to industry at a cost far below what would be charged for private insurance.

In the meantime, insurance companies have added to their home-owners and other insurance policies a clause excluding coverage of nuclear catastrophes.[6]

So, in a word, the public is holding the bag.

Or, as a Columbia University study of Price-Anderson declared last year:

. . . the decision to limit liability represents a determination that a major share of the costs of an accident should be borne by its victims.[7]

"BY THE WAY . . ."

I believe the committee failed its obligation to the public in permitting the limitation of corporate liability.

The Committee has indeed indicated that should damages exceed $560 million, the Congress may provide disaster relief. But another Columbia study has shown that Congressional action in such instances can be expected to be too little, too late.[8]

What's more, if Congressional action is what's needed to cover a nuclear catastrophe, then what purpose is Price-Anderson serving? Nothing in the Act guarantees extra relief.

The only conclusion is that Price-Anderson exists to protect the utilities and nuclear manufacturers. Period.

Footnotes at end of article.

The kind of non-protection Price-Anderson gives the public could be compared to a policeman saying something like this:

There's an arsonist in the neighborhood. Maybe he'll burn down your $17,000 house. Probably not. The chances are very small. But maybe. But don't worry! If he gets your house, we *guarantee* you five-hundred-sixty dollars!

Maybe the damage will be less. Anyway, if it's more, you can ask the United States Congress to make up the difference! In any event, we want you to understand that this arsonist is a Very Important Person. Whatever happens, you're not allowed to touch him. By the way, your fire insurance is cancelled.

$560 MILLION MINUS . . .

Even within those provisions which supposedly assure $560 million for victims, there are loopholes which protect industry at the expense of the public.

For one thing, industry's costs for investigating and settling claims are to be subtracted from the $560 million. In other words, the funds to pay utility lawyers to challenge victims' claims will come from money supposedly designated for paying those claims.[9]

In addition, the utility's property, outside the reactor, is covered by the $560 million. That is, the utility will recover from its own "public liability" insurance.[10]

It's also interesting to see how much private insurance the utilities have managed to get for damage to their reactors in an accident. While they claim that only $125 million in coverage can be found for public liability, their reactor, in the same accident, is covered to $175 million.[11]

H.R. 8631 proposes that so-called "deferred premiums" be used to gradually phase out the government's responsibility as an indemnitor. Yet there are loopholes here, too, protecting industry and not the public.

As proposed in this bill, the premiums are likely to be deferred in whole or virtually in whole until the accident takes place. Even then, the government may forward the money for utilities caught short of cash.

It seems to me that deferral of the premiums virtually guarantees that the government will have to pay for the utilities in the event of a nuclear catastrophe.

Furthermore, H.R. 8631 authorizes a ceiling on the number of payments that may be made within a given year. Apparently, then, after the victims of one accident get, perhaps, pennies to the dollar, victims of other accidents that year might get nothing at all.

ILLUSIONS

Admirers of the Price-Anderson Act point to its assurances that money will be available to victims on a no-fault basis.

In fact, however, the guarantees made by Price-Anderson are rather illusory.

To begin with, in many states, utilities would be held strictly liable even without Price-Anderson.

In addition, victims must accept the settlement offered to them or else go to court much as though Price-Anderson's no-fault provisions did not exist.[12] How many people are likely to accept their pro-rated share if the damages exceed $560 million?

It should also be noted that the $560 million provided by Price-Anderson is now worth much less than it was when it was settled on 20 years ago. And in that same period, the possible consequences of an accident have grown, because reactors are larger and the population density near them is greater.

The Congressional Research Service calculated that $3 billion would be more appropriate coverage—and even that calculation is now three years old.[13]

Finally, there is the problem of proving damages. Even under the no-fault provisions, victims must prove that their injury was caused by the accident.[14]

But a cancer does not grow with a flag in it, identifying its cause. It is impossible to prove that any cancer has been caused by radiation. And the industry is not going to give victims the benefit of the doubt.

The case of Edward Gleason, a truck dock worker, is instructive.

In 1963, Gleason handled an unmarked, leaking case of plutonium that was being shipped to a nuclear facility. Four years later he developed a rare cancer; his hand and then his arm and shoulder were amputated. He sued, but even though plutonium is among the deadliest of radioactive poisons, company insurers said his plutonium accident could not be proven as the cause of the cancer.

Gleason's suit was dismissed in 1970 on statute of limitations grounds, although a settlement was later made. He died of cancer in 1973 at the age of 39.[15]

Finally, even if the victim can prove his case, how much of the $560 million is going to be left for those who suffer cancer years after the accident?

Only by restoring the citizen's right to recover relief beyond the no-fault amount can Price-Anderson claim to treat the public fairly. And the nuclear power industry should be exposed to such suits, not isolated from the consequences of nuclear accidents.

OTHER PROBLEMS

The list of difficulties arising out of the liability ceiling grows even longer.

I will mention only in passing the well-established relationship between liability and caution, a relationship which is undermined by the Price-Anderson liability limit.

Only in passing, too, will I mention that Price-Anderson has acted as an industry subsidy. As such, it has made nuclear power look more attractive economically than it really is.

And this has meant pouring tens of billions of dollars into nuclear fission and keeping those dollars from the benign and renewable energy sources that we should have taken seriously long ago.

MOST IMPORTANT

The most important point remains to be made.

The reality of a nuclear catastrophe exceeds the capacity of the imagination: a hundred thousand persons each suffering $60,000 in damages in the case of the $6 billion estimate; or a million persons each suffering $17,000 in damages in the $17 billion case. There has never been a peacetime disaster on such a scale.

Yet this committee has been told repeatedly that the possibility of such an accident cannot be ruled out. As long as we rely on nuclear power, we court this kind of disaster.

There is only one way to protect the public from the consequences of a nuclear power catastrophe, and that is to stop building nuclear power reactors.

Harold Green, an attorney and law professor, has stated the Price-Anderson paradox most precisely. He wrote in the Michigan Law Review:

The fact that the technology exists and grows only because of Price-Anderson has been artfully concealed from public view so that consideration of the indemnity legislation would not trigger public debate as to whether nuclear power was needed and whether its risks were acceptable. . . .

It is remarkable that the atomic energy establishment has been so successful in procuring public acceptance of nuclear power in view of the extraordinary risks of the technology that are so thoroughly and incontravertably documented by the mere existence of [the Price-Anderson Act].[16]

DEBATE

Mr. Chairman, today a nuclear power debate is underway.

In Oregon and Massachusetts, state energy reports have recommended against nuclear power.

In New York, the legislature has alerted

the state energy office to deemphasize nuclear development.

In Vermont, new nuclear power plants must now be approved by the state legislature.

In California, more than 400,000 voters have put the nuclear power issue on next June's ballot.

And nationwide, the Task Force Against Nuclear Pollution has collected more than 250,000 signatures on the anti-nuclear Clean Energy Petition.

Some 2,300 scientists and technicians recently called for a "drastic reduction" in our nuclear power program. They included nine Nobel laureates.

And the National Medical Association, representing 4,000 American physicians, has issued a resolution calling nuclear power into question.

Across the country and in other nations as well, thoughtful and responsible people are now challenging the nuclear power gamble. This is not the time to stimulate new nuclear construction by the perpetuation of a devious law.

There are several changes I would recommend in the Price-Anderson Act:

The statute of limitations should be extended to at least 30 years;

The deferred premium should be greater than $5 million; perhaps $10 million per installation, or $1 million per 100 megawatts in the case of power reactors;

Deferred premiums should not be deferred in whole;

There should be no limit on the number of times premiums can be charged in a year;

Utilities should not be allowed to collect investigation and settlement fees from the money that is meant to compensate victims;

The states should be given explicitly the right to set indemnification standards higher than those of the federal government.

BASIC CHANGE NEEDED

But these are small refinements which do not affect the basic objectionable feature of the Price-Anderson Act; that is, the ceiling on corporate liability.

If utilities choose to gamble with nuclear power, let them share the risks along with the rest of us. If the odds are really as favorable as the industry advertises, the risk should not bother the utilities.

If utilities will not build nuclear power plants under these conditions, then it is time for us to confront the meaning of their refusal.

In the interests of launching the nuclear power industry, the constitutional right of the citizen to just compensation was suspended. This abridgement of rights was not justified in the industry's early days—it is even more offensive today.

The victim of a nuclear catastrophe must have the right to seek, under normal tort law, damages beyond the $560 million guaranteed by Price-Anderson.

The right of the citizen to just compensation must be restored. I ask the committee to assure that right in H.R. 8631.

FOOTNOTES

[1] Figures from the Rasmussen, Brookhaven and updated Brookhaven studies. *Environmental Action*, October 12, 1974, page 3. Hearings before the Joint Committee on Atomic Energy, "Possible Modification or Extension of the Price-Anderson Insurance and Indemnity Act," 1974, page 260, *Theoretical Possibilities and Consequences of Major Accidents in Large Power Plants, Wash–740*, U.S. Atomic Energy Commission, 1957, pages 1–6.

[2] *Hearings*, page 94. *Selected Materials on Atomic Energy Indemnity and Insurance Legislation*, Joint Committee on Atomic Energy, 1974, pages 75 and 79.

[3] *Hearings*, page 219, John Gofman & Arthur Tamplin, *Poisoned Power*, Rodale Press, 1971.

[4] Sheldon Novick, *The Careless Atom*, Houghton Mifflin, 1969, pages 90 to 110.

[5] *Selected Materials*, page 75.

[6] *Hearings*, page 122.

[7] *Hearings*, page 256.

[8] Columbia University Drafting Research Fund, *Catastrophic Accidents in Government Programs*.

[9] Atomic Energy Act, Section 170, paragraph h. *Hearings*, page 212.

[10] *Selected Materials*, page 87.

[11] Atomic Industrial Forum, *Price-Anderson Questions and Answers*.

[12] *Hearings*, page 130.

[13] *Selected Materials*, page 449.

[14] *Selected Materials*, page 85.

[15] *Hearings*, pages 231 and 238. *Selected Materials*, page 460.

[16] *Selected Materials*, pages 216, 217.

THE ANZA EXPEDITION

Mr. FANNIN. Mr. President, I want to bring to the attention of my colleagues the National Bicentennial project in southern Arizona commemorating the Spanish colonizing expedition led by Lt. Col. Juan Bautista de Anza in 1775–76. The reenactment of this expedition is being sponsored by the Arizona Bicentennial Commission, the Arizona Historical Society, and the American Revolution Bicentennial Administration.

The original expedition was an epic journey of colonization, a thousand mile march from Sonora, Mexico, through Arizona, and culminated in the founding of San Francisco in 1776, only 2 months after the Thirteen Colonies along the Atlantic Coast had declared their independence from England.

The expedition had the following objectives: to open an overland route in order to supply colonies in California from Sonora and Sinaloa, Mexico; to defend and support the colonies already established in San Diego and Monterey; to found the mission and presidio of San Francisco; and to ward off the threatening encroachment of Russians and English along the northern Pacific coast. After recruiting settlers and soldiers in Sinaloa and Sonora, Anza assembled his colonists at the presido of San Miguel de Horcasitas, Sonora, Mexico. They left September 29, 1775, and arrived at Tubac—now in Arizona—on October 15.

More people joined the expedition, and the full complement of 240 persons along with 1,000 head of domestic animals departed from Tubac on October 23 for the pueblito of Tucson. From there they traveled north to the Gila River, and followed it west to its confluence with the Colorado. They then crossed the desert and arrived at San Gabriel on January 4, 1776. The settlers then moved on to Monterey and the San Francisco presidio was officially founded on September 17, 1776. Thus the historic journey was completed.

The Bicentennial commemoration emphasizes not only the historical facts of this extraordinary expedition between Mexico and California but also the cultural ties which still unite the peoples of Northwest Mexico and Southwest United States.

The Anza Expedition Commission has planned several community fiestas to take place on the Bicentennial date that the expedition made its stop in those communities. These will all be oriented toward Arizona's Spanish period in general, and the Anza expedition specifically. Beginning at Nogales, Ariz., on October 14, the Arizona portion of the project will be a day to day reenactment to Yuma, where the California contingent of the expedition will pick it up.

Gov. Raul Castro has declared September 29 through November 30 as De Anza Days. His proclamation says:

The reenactment of this historical accomplishment will help to emphasize and reinforce our common bond of heritage and friendship with the peoples of Mexico.

The following is a list of activities planned along the Anza route in Arizona. The focus for each of these observances will be Arizona 200 years ago, with the main attention focused on the Tubac ceremony.

Tubac, Ariz., October 23, the departure of the expedition will be reenacted beginning at 11 a.m.

Tucson, Ariz., October 25, San Xavier Mission; after a traditional mass, a ride from the mission to the site of the original Tucson settlement will take place. At Nuestro Parque a Spanish fiesta will recognize the Anza expedition.

Casa Grande, October 31, at the Casa Grande Ruins National Monument there will be a reenactment, with the Gila River Indian Community, of the Indians giving Anza tour of the prehistoric ruins.

Yuma, November 30, ceremonies will be held at the point where, with the aid of the Yuma Indians, Anza and the colony crossed the Colorado River and began the long trek to the San Gabriel Mission on the Pacific coast. From here the California Bicentennial Commission will carry the reenactment through the State to culminate with the bicentennial of San Francisco's founding.

Because of the importance this expedition played in American history, I would urge my colleagues to take the opportunity to visit Arizona during the ceremonies to share in the celebration.

GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, approximately 30 years ago President Harry Truman first submitted the Genocide Convention to the Senate for ratification. In the time that has transpired since then, the Senate has failed to take affirmative action to see to it that genocide is legally declared as the antithesis of everything that the U.S. Government stands for. This failure on our part to act exists despite the urgings of countless religious and civic organizations, not to mention the fact that more than 70 nations, including most of our NATO and SEATO allies, have ratified the convention. This inaction is inexplicable to our allies and a constant embarrassment to our diplomats. This point is typified in remarks by former Justice Arthur J. Goldberg, who once said in testimony before a subcommittee of the Senate Foreign Relations Committee:

When I was United States Ambassador to the United Nations, I was often asked to ex-

plain our failure to ratify the genocide convention. Frankly, I never found a convincing answer. I doubt that anyone can.

The question which remains on my conscience is: How can we proclaim the rule of law and various humanitarian principles when we refuse even to ratify the Genocide Convention? There is perhaps no issue more basic in the entire human rights spectrum than the issue of genocide. There is no doubt in my mind that the concept of genocide violates the integrity of this entire planet. Decent and rational human beings clearly cannot support the concept of genocide; therefore it must be our commitment to see to it that genocide is decreed illegal under international law.

THE MEDICAL CARE SYSTEM UNDER NATIONAL HEALTH INSURANCE

Mr. FANNIN. Mr. President, even though the enactment of a national health insurance program has been deferred for the time being because of economic uncertainty and the need for restraint in Government spending, the discussion as to the scope of a national health insurance program continues. In the absence of any specific legislative activity, Members of Congress, health care providers, consumers, and commentators are utilizing this opportunity to review the effects of the various national health insurance proposals on the health care system not only in terms of economic impact but on the delivery of services as well. There is no question that a national health insurance program will involve considerable cost and will require major changes in the health care system. It is imperative, therefore, that we understand, insofar as it is possible, what various NIH plans will demand. In this context, Dr. Walter McClure of Interstudy has published an exceptional paper analyzing the various forms of national health insurance and their impact. This timely article should caution each of us in our pursuit of a national health insurance program. By discussing the types of national health insurance proposals and what may be required to conform the organization and operation of our health care system to each plan Dr. McClure has rendered us an invaluable service in alerting us to potential results and problems. The more we know about the effects of each NIH proposal the better equipped we will be in choosing one plan over another.

Because of the significant contribution of Dr. McClure's study to the ongoing debate over national health insurance I ask unanimous consent to have printed in the RECORD his paper, "The Medical Care System Under National Health Insurance: Four Models That Might Work and Their Prospects."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE MEDICAL CARE SYSTEM UNDER NATIONAL HEALTH INSURANCE: FOUR MODELS THAT MIGHT WORK AND THEIR PROSPECTS

I. INTRODUCTION AND OVERVIEW

The burden of this analysis is that the American medical care system will require significant change under any foreseeable form of national health insurance (NHI). Indeed, the medical care system is so central to every issue now pressuring government to intervene in health care, that significant change appears unavoidable even in the absence of NHI. With several options available and with such serious consequences for consumers, providers and especially payers of care riding on the decision, the issue of change in the medical care system has received surprisingly little attention in the public debate on NHI. Yet so tightly are the delivery and financing of medical care interwoven that the fate of NHI and the medical care system are inextricably tied; decisions on either will determine the shape and success of both. Therefore, in asking what kind of NHI we want, Americans might best begin asking what kind of future medical care system we want. They are the same question.

The kind of medical care system we get will result from a complex interplay of both technical and political dynamics. This analysis will examine both technical and political considerations to indicate why change seems inevitable, what choices we have and, more speculatively, where our present course may lead.

The issue of medical care system change can be put in the form of a dilemma. On the one hand our society has shifted substantially in the last decade to the idea that health care is a right. We increasingly believe that medical care use should be determined not by income and personal circumstances but by some standard of medical need, and that no one should be bankrupted by ruinous medical expense. We have already made—perhaps without wholly realizing all that was involved—significant, irreversible commitments to this idea through Medicare and Medicaid, and of course we are now contemplating national health insurance.

On the other hand, and here is the dilemma, we already know how to practice a style of medicine in the United States which, if we were to extend it equally to all, would be far more expensive than this nation would or should pay, and far more expensive than the meager improvement to the nation's health would justify. Moreover, the ability of inventive American science and technology to elaborate this style and make it more costly is almost endless. It appears that this costly elaboration is already occurring under Medicare, Medicaid and comprehensive private insurance, to such an extent that government has felt compelled to intervene more and more strongly in the medical care system.

It is our central contention, first, that this cost escalation is unlikely to abate. It is deeply rooted in the structure and incentives of the present medical care system and its financing, and on its own the system has no adequate mechanisms to cope with it. Second, while government may waver on its other health care goals—financial protection of patients, more equitable access, improved effectiveness—it can not afford to waver on cost containment. Caught in a troubled economy between a squeeze on public budgets from other pressing priorities, and footing 40% of the rapidly rising health care bill (presently in excess of $100 billion), government will do everything and anything it must to control health care costs. It will not succeed without significant change in the medical care system.

The deep-rooted nature of cost escalation and its seriousness in our present system can be illustrated by an argument and an example. The argument is as follows: As a nation we are increasingly shifting health care from a market to a merit good. Our principle mechanisms for doing so—tax breaks for employment health benefits,[1] Medicare, Medicaid—have resulted in the widespread provision of private and subsidized public health insurance. In effect we heavily reduce the effective price to the patient at the time of service, and commit a third party—the insurer or government—to reimburse the provider for the expense of covered services. This lowering of effective price raises demand.[2 3] With perhaps over half the population presently covered by good comprehensive insurance,[4] it can be argued the nation is in a state of unsatiated demand. This does not mean that insured consumers are knocking down physician doors; it does mean they would accept more elaborate care if providers recommend or provide it to them.

With price and demand no longer the arbiter, the cost and quantity of services delivered becomes determined by the supply system, the medical care system. But as our later analysis will attempt to demonstrate, the quantity, quality, style, and therefore cost of medical care can be escalated almost indefinitely, and the present medical care system has every incentive—ethical, professional, financial, and legal—to escalate them. Moreover we as patients support them in this.

The following example shows the seriousness of the results. It is estimated by some medical experts that up to 4 million persons are potentially candidates for coronary bypass graft surgery, an expensive new procedure costing about $7000.[5] No rigorous clinical trials have been performed, but for some patients it is thought to prolong life at least somewhat, for many it relieves pain (although less costly medical treatment may be equally effective in some cases) and for others the benefits have yet to be established.[6 7] The incidence of the procedure is growing rapidly, apparently constrained mainly by the number of surgeons trained in the operation. If insurance makes price no longer an issue, and the patient's physician recommends the procedure, the patient is unlikely to resist. Thus the nation could spend up to $20 billion on this procedure alone if all patients had comprehensive coverage. Even under present coverage at least half that sum will be spent.

Now if one had $20 billion to spend on the health and well-being of the United States, would he choose to spend it on a single procedure of unestablished efficacy? Would he choose to spend it on more medical care alone, even on procedures of established efficacy? Many other non-medical interventions—nutrition, environmental clean-up, traffic safety—improve health; it would seem to be a matter of priorities, of weighing the costs and benefits. The point is, that under present third party reimbursement insurance, one has no choice. If the medical care system elects to perform coronary bypass surgery, the third parties are committed to reimbursing however much they do. And this example, while perhaps more dramatic than most, can be endlessly multiplied.[8]

Thus health care is no longer a benign issue. If we simply continue extending third party insurance coverage without attention to the response of the medical care system, we run the risk of our medical care system becoming a kind of vast vacuum cleaner, sucking uncontrollable amounts of GNP and scarce tax dollars—urgently needed for other equally pressing national priorities—and putting them to medical care. This would seem to be the principal danger facing national health insurance. Should NHI force us to overspend for medical care the health

Footnotes at end of article.

and well-being of the nation may actually be reduced.

Providers of medical care cannot be blamed for this situation. It is society who changed the rules; it is we the people who are establishing health care as a right. Until the last decade or so, we were content with our medical care system and with health care as a market good. Our expectations have changed. But the structure and incentives of the medical care system have not changed, and cannot cope with health care as a merit good. Thus the problem is structural rather than conspiratorial. It is not that providers will try to do so ill; it is that they will try to do us too much good. And when someone else foots the bill, we will all want the very best. The system is therefore doing exactly what society rewards it to do. If we want health care as a right at a price the nation is willing to pay, we shall not only have to change the medical care system but our attitudes and expectations as patients as well.

What options are available to us? There are three principal devices which experience indicates may bring health care costs under reasonable control.

The first is consumer cost-sharing, where the consumer is asked to pay a greater share of the price at the time of service. This involves the least change in the medical care system, but to achieve adequate financial protection for catastrophic expense, some change will be required. However, cost-sharing of the magnitude necessary to work effectively involves taking away existing benefits, which is extremely difficult politically.

The second is reorganizing the private system so that it has improved structure and incentives to accomplish national goals; the encouragement of HMOs and other alternative delivery systems is an example. However, it will require considerable private initiative to create sufficient change to influence the entire medical care system behavior. Encouraging the necessary motivation and acceptance will be difficult.

The third device is public utility controls. However, experience suggests the controls must be extremely powerful to work. We shall argue that such controls are unlikely to work well until the government can fix the budget for regulated services in advance. Regulatory intervention is the simplest device to implement incrementally, but controls of the magnitude necessary to work effectively will also substantially change the medical care system and will be a long, difficult course politically.

These three devices can be combined in a number of ways to form various future models for the medical care system. Those emphasizing the first two devices may be termed "consumer market" oriented, and those emphasizing regulatory controls may be termed "public utility" oriented. In the analysis we shall examine two models of each kind which are likely to work (and one of each kind likely to fail). It will be seen that each medical care system model places different constraints on the design of a national health insurance plan, and conversely, the national health insurance plan influences the direction of change in the medical care system.

Thus national health insurance may offer an opportunity; it can provide the levers to move the medical care system where we want it to go. However, there is little public consensus presently where we want the system to go, indeed there is little awareness that significant change will be needed. In a recent television forum on NHI, only Congressman Ullman insistently recognized the point that the delivery system needs change; the other congressional and administration speakers largely ignored it.[9] Given that all the workable choices appear difficult and will deeply affect all of us, surely the issue needs broad, informed, searching public debate. What kind of medical care system do we want that can provide adequate, effective health care to all at a price the nation can afford?

The analysis is laid out as follows: The next section looks at the goals and problems for national health insurance and the medical care system, and the pressure on the Federal government to resolve them. Section III analyzes the underlying causes in the medical care system responsible for these problems. Section IV analyzes the general options available to address these underlying causes, and the prospects to implement each option. Finally Section V speculates where our present course may lead.

II. PROBLEMS AND GOALS FOR NATIONAL HEALTH INSURANCE

Most Americans would probably agree on the following four goals for NHI, if not necessarily on the means to get there. Indeed these are the problems and goals of health policy more generally.

Goal 1. Financial protection of people from undue medical expense

The United States remains one of the few industrialized countries where an individual can be bankrupted by medical expense. Presently approximately 10% of U.S. households spend directly (i.e., excluding employer or other contributions) in excess of 15% of their income annually for health insurance premiums and out-of-pocket medical bills.[10] Almost 4% spend more than 25% of income on such expenses. This burden falls most heavily on the sick and poor. The country must make a decision on whether, how and how much this burden should be shared more widely with the well and well-off.

Goal 2. More equitable distribution of health care among the population

Through Medicare and Medicaid the United States has made enormous strides in improving the distribution of health care by income. In 1963 the poorest third of the population received substantially less services than the highest third. By 1969 both groups used on average about the same amount of services.[11] The price paid in medical cost inflation to accomplish this was substantially more than anticipated. Nevertheless substantial inequities, by income and area, appear disguised in these averages. Relative to health needs, which are higher among low income persons, the lowest income third of the population should probably be using more services than the rest of the population.[12 13] Further, the great variation in availability of services creates considerable disparities in per capita use both regionally and locally.[14 15]

Goal 3. Improved effectiveness of health care

Except for certain underserved groups in the population, it is doubtful that at our present service levels more health care will make measurable improvement in national health levels. Western nations vary more than 200% in per capita expenditures for health care but by less than 5% in most health indices,[16] and health indices do not particularly correlate with expenditures.[17] Genetics, personal lifestyle, nutrition, environment all appear to play a more determinative role in health than does health care. Nevertheless, the rather meager research on actual patient outcomes of health care in practice suggests there is great variability in effectiveness.[18, 19] Within the limits that health care can achieve, improved effectiveness would provide higher health value per dollar of health care.

Goal 4. Control of health care costs

From 1965 to 1973 per capita health care expenditures in the United States rose from $176 to $401, and total health care expenditures rose from 5.9% to 7.7% of GNP.[20] Health care is perhaps the largest sector of the economy to sustain such high continued cost escalation. This escalation is particularly troublesome because, although the use of services has increased and is more equitably distributed, it is difficult to find more than marginal improvement in health levels. (It should be noted that for the last three years, health care expenditures have remained roughly constant at 7.7% of GNP. However, it should also be noted that the annual increase in health care expenditures did not slow down so much as the rest of the badly inflating economy caught up. The analysis of this paper suggests there are many pressures at work in the health care sector likely to continue this cost escalation, even should inflation in the rest of the economy slow down.)

In addition to the above goals, there are two additional corollary goals or constraints which NHI should observe:

Constraint 1. Minimal or at least evolutionary disruption of existing institutions

Congress tends to move in a cautions incremental way, building on previous actions. Not only is there considerable political inertia in attempting to drastically change large systems of people, such as the health care and health insurance systems, there is considerable danger of confusion and ineffectiveness in doing so. There are also often unforeseen side effects. For example, what might happen to the private financial investment structure of the country, should the private health insurance industry be substantially altered? (This is not an argument that it should or should not be in time, only that in a sector as large as health care, drastic change should only be made if necessary, and then at a pace that that nation can politically and practically absorb.) Thus it is probably politically and practically unrealistic to expect enactment of an NHI proposal which goes too far too fast, irrespective of its merits.

Constraint 2. Feasibility, both of the NHI plan and its implementation strategy

Any NHI plan must be acceptable to the public and workable in practice. Further, there must be a feasible way to implement the plan, a change strategy to get there from here. These are not the same thing. The analysis of this paper suggests that the NHI proposals most likely to meet the above goals, could they be implemented, are the most difficult to implement. Conversely, the plans most easily implemented are the least likely to fulfill the goals.

To achieve the above goals, an NHI plan will have to specify five issues or "variables:"

Eligibility. Who will be covered? Will eligibility be universal or limited to special groups, will coverage be compulsory or voluntary?

Benefits. Will benefits be basic only, catastrophic only, or comprehensive? Will benefits be uniform or vary among those covered?

Financing. How will the cost of the plan be spread over consumers (via premiums and co-payments), dedicated taxes (payroll tax, surtax) and general revenue?

Administration. Shall the plan be publicly or privately administrated? In particular, will all private insurers participate or only a limited number, or none? Will they act as underwriters, or as intermediaries only?

Medical care system. What kind of medical care system do we want that can provide equitably distributed, effective health care to all within the means society wishes to pay? What kinds of incentives and controls will create such performance?

Now even superficial inspection shows that all the problems and the goals listed above, even how much financial protection we can afford, crucially depend on the behavior of the medical care system "variable". In the next section we will show just how inter-

Footnotes at end of article.

related and deep-rooted this dependence is. Thus the medical care system is a central issue in the whole NHI question, and indeed of health policy generally.

More particularly, all these goals—and all our other social priorities: welfare, criminal justice, housing, jobs, etc.—depend on having dollars available. Thus the central goal that enables all the rest is cost containment. Yet medical care is the largest uncontrollable cost item in the federal budget. This has become particularly critical lately. Before 1972 federal revenues regularly rose faster than committed program expenses because of the natural increase in personal and business incomes. New programs could be financed out of this natural increase in revenue. Since 1972 this situation has begun to reverse, so that commitments are rising faster than revenue[21] (inflation has provided a partial and unwelcome respite). The government has had to raise taxes just to honor present commitments, and cut back programs.

Social programs and defense have been the chief casualties. Thus the achievement of a successful NHI program (which does not devour scarce dollars needed for other equally important national priorities) depends upon the achievement of a medical care system with reasonably controllable costs.

To make things more difficult, all the "variables" above are highly interrelated. The Congress cannot answer them independently one-by-one without getting highly contradictory, conflicting policy. If the desired medical care system of the future is specified, the remaining variables are to a large degree determined or at least constrained. Conversely, if the other variables—eligibility, benefits, financing and administration—are specified, they will largely determine, intentionally or unintentionally, the future medical care system. Thus the nation has an extremely complex decision-making process to go through. If it chooses the other "variables" unmindful of the medical care system, it may wind up with a system that won't hold costs. And it may find it difficult and expensive to undo and redo these unmindful decisions.

It is particularly disturbing, then, that the medical care system has received so little attention in the current debate on NHI. Few of the major NHI proposals seriously address the problem of a coherent medical care system strategy, and make token recognition of cost control with piecemeal measures for which there is little evidence of effectiveness, either in this or other countries.[22 23] In the absence of debate, the public appears to be under the illusion that through NHI they can achieve (1) complete financial protection and (2) controlled costs, and (3) still retain the present system and style of health care while (4) improving access to service into the bargain. This analysis will suggest at best we can achieve any three of these desires but not the fourth: either we shall make substantial change in our health care system, or we shall suffer runaway costs, or we shall considerably lower our sights on the goals specified above. At worst, all of these events may occur.

III. AN ANALYSIS OF MEDICAL CARE SYSTEM BEHAVIOR

This section attempts to show that the major problems outlined in the previous section do not lend themselves to quick band-aid solutions but are deeply-rooted in the structure and incentives of the present medical care system and its financing. We shall try to identify the basic structure and incentive elements determining system behavior, so that the policy and political analyst can understand what needs changed and anticipate how the system will respond to various corrective strategies under NHI.

Ideally we would prefer a rigorous general theory of medical care system behavior, but such a theory is probably still a few years off. However, recent research has uncovered many bits and pieces of the puzzle which, combined with plausible assumptions and arguments, can be woven into an analysis providing at least qualitative understanding of gross system behavior important to policy. With the caveat that conceptual analysis is not a substitute for a quantitative theory, we shall advance such an analysis.

The analysis is developed as follows. We start with a fundamental assumption that the behavior of organized systems of people is determined by the structure and incentives of the system. We then set forth as further basic assumptions—generalizing from research, observation and experience—what are believed to be the key structural and incentive factors governing the behavior of the medical care system. While we shall attempt to make these generalizations plausible by explanation and example, we shall not attempt to defend them directly. Rather we shall treat the assumptions like postulates, to be justified by their ability to rationally explain or predict system behavior confirmed or consistent with research findings. (If we are unable to plausibly deduce important known system behavior, this would indicate either error in the basic assumptions or that additional important structural and incentive factors have been overlooked. On the other hand, if most of the important behavior of the system can be accounted for, we gain confidence that the basic assumptions must be part of any eventual theory of the medical care system.)

Once we have reasonably justified the basic assumptions in this manner, we shall use them in later sections to infer medical care system response to various policy proposals and NHI plans. Of course, our deductions will be based on rational argument rather than rigorous derivation, and the farther we stray from confirmed behavior, the more speculative the analysis becomes. Nevertheless this type of structure-incentive analysis is believed a useful tool for the policy analyst working with social systems generally, and may serve as a source of hypotheses for an eventual, more rigorous theory.

A. Basic assumptions

1. The medical care system behaves the way it is structured and rewarded to behave. Policy strategies will succeed or fail depending on how they address or alter the basic structure and incentives dictating present system behavior. This assumption is asserted as self-evident. By structure is meant the nature of the individuals and organizational elements in the system and the relationships among them. By incentives is meant all the positive and negative rewards and penalties—personal, social, professional, financial, legal—operating on individuals and organized elements in the system.

2. The quality, quantity and style of medical care are indefinitely expansible. Several terms are used in the analysis which are defined here. By "effectiveness" is meant the degree of improved health levels in the population cared for, within the limits that health care can improve health. "Quality" of health care is defined synonymously with effectiveness. By "efficiency" is meant effectiveness divided by cost; i.e., we understand efficiency as health improvement per dollar expended, not number of services per dollar expended. By "style" of practice is meant the degree of use of costly, technological inputs. "High style" means a high level of costly inputs; high style health care can be effective or ineffective, but it is always high cost. "Low style" practice makes less use of costly inputs; it can be effective or ineffective, just as with high style care, but it always costs less per service. Of course, ineffective low style care could eventually cost more than effective high style care. Conversely, equally effective low style care is more efficient than high style care.

The medical care system can legitimately absorb every dollar society will make available to it. The nature of a system's product is one of the most important structural elements. In the case of the medical care system, the probabilistic and uncertain nature of both health and medical science implies that medical need is virtually inexhaustible. Providers can always try to provide ever greater safety margins for treatable patients, treat more and more hopeless patients, and screen for less and less probable diagnoses. For example, why perform $50 of laboratory tests to be 95% sure of a diagnosis, if $250 of tests will provide 97% certainty. Or, if a patient's condition is otherwise hopeless, why not perform an operation with a one in a thousand chance of success. Or, if an annual physical is good, why isn't a semi-annual physical better. Physicians already give themselves and their families 30% more care than the national average,[24] and inventive American science and technology can endlessly elaborate the possibilities. The final check on what gets done is the dollars available.

Elaborate medical care is not necessarily bad nor unnecessary (and consequently will not be curtailed by controls aimed at bad or unnecessary care), but it does run rapidly up against the law of diminishing marginal returns. The first few dollars invested in medical care—for immunizations, setting broken bones, etc.—are very effective in improving health. But it becomes increasingly more difficult and expensive to make similar health gains as we spend more. Beyond a certain point all the additional tests provide little extra safety margins, the heroic measures only prolong the coma and postpone the inevitable, we even begin to produce complications from our complex medical interventions.

3. The incentives on providers in the present medical care system are powerfully skewed toward specialized, technological, high cost-low benefit care. The following examples illustrative some of these incentives. Peer reputation is a powerful motivator in most professions, and the physician gains far greater peer (and public) prestige practicing highly-specialized, technological care than practicing general primary medicine.[25] Financially, specialty work returns significantly greater income per hour than primary care,[26] and fee-for-service rewards the provision of more services and more expensive services.[27]

Educationally, the physician is trained in medical centers engaging in highly specialized secondary and tertiary care, presenting role models he will be professionally socialized and rewarded to follow. Ethically the provider is bound to do all he can for each patient he accepts. Legally, physicians feel that malpractice doctrine seems to assert that, in event of an untoward result, the physician had better be able to demonstrate he performed all standard (whatever the court defines this to be) procedures even if he believes them excessive and unwarranted. Thus, unless altered or checked by limited financing, these incentives should lead physicians toward elaborate, specialized, high style practice which helps the few at great expense rather than lower cost, lower style medicine which helps the many.

4. The wide-spread extent of private and public third-party reimbursement health insurance, well over half of which appears quite comprehensive, provides almost open-ended financing to the medical care system. The patient (first party) and provider (second party) control the cost and use of services, but the bill is paid by a third party—the insurer—who is committed to reimburse whatever covered services are done. The con-

Footnotes at end of article.

additional co-payments at the time of service), has every incentive to receive benefits that may help him, the provider has every incentive to render them. The insurer, public or private, risks the wrath of both the consumer and providers if he interferes. To control expenditures under third party reimbursement health insurance, the insurer would have to intervene in virtually every individual medical transaction to judge its cost and appropriateness, a questionable role for a financial agent and a task which not even public insurers have succeeded at. (Thus Canada with universal public health insurance of the third party reimbursement type has cost escalation comparable to the United States with its mixed public-private insurance systems,[28] even though Canada has tried virutally every control proposed for the United States. With an estimated 80–90% of the Americans having at least some public or private health insurance, and well over half rather comprehensively covered,[29] the medical care system has almost a blank check for its activities.

5. The medical care system is fragmented into many small, independent units of production—predominantly solo physicians—inhibiting economies of scale and continuity, and creating strong externalities among the units. By externalities is meant that costs and savings are not borne by the provider who creates them. For example, because physicians and hospitals are independent, the physician does not bear the cost of the hospital or its specialized facilities when he places a patient there. For example, the good family practitioner who detects and treats an illness early receives payment only for a few office calls; he receives none of the hundreds of dollars saved from the operation he may have prevented thereby. (These externalities tend to be reinforced by the consumer, who is far more motivated to seek care for late stage illness than for early stage, asymptomatic conditions.) Thus there is both structural inhibition and an absence of financial incentives to use the mix of health resources efficiently.

6. The consumer is a poor judge of either the effectiveness or efficiency of his medical care nor is he able to get much information about them, giving the provider considerable latitude over the type and quantity of services demanded. The consumer seeks health. He receives health services, about which he knows little[30] and, under present professional controls, can obtain little objective information on cost or quality.[31] His information costs are therefore high and increase with the complexity of the episode, complicated by the presence of illness itself. He can of course judge expense (and may often equate expense with quality), and has several means to regulate his demand if he feels the benefit of health care unlikely to justify the expense: by not presenting himself for treatment, by non-compliance, by pressuring the provider for alternative cheaper treatment, or by seeking second opinions and alternative providers. The latter means are partially biased by professional control (as well as present malpractice doctrine) over standards of practice: for example, it is hard to imagine an American obstetrician recommending home delivery by a midwife, though the Dutch experience suggests that, properly organized, this can be quite as safe and much less expensive for uncomplicated deliveries as our specialized hospital delivery.[32]

Were quality assured by other means and if objective information were available, price pressure could make consumers a more effective force for efficiency, but with the artificially low prices created by insurance, consumer choice is a poor force for either effectiveness or efficiency.

Footnotes at end of article.

7. The medical care system has no ongoing mechanism to systematically monitor patient outcomes, nor is any provider accountable for the patient's health beyond the services that provider rendered. The medical care system has little knowledge nor accountability for its final product: health. For example, if a health survey found an excessive amount of uncontrolled high blood pressure in a community, what could it do with such information; no provider can be held accountable either for the problem or its correction. Each provider can choose the type of services he shall render, and is not responsible for other health problems in the population no matter how pressing. Moreover, once the provider has completed an episode of services, he tends to lose track of the patient. There is neither mechanism nor incentive to determine that the patient received all additional services of other providers to assure that his health was optimized. When a system is without feedback or accountability for goals, that system will tend to confuse means with ends. If the medical care system does not measure its productivity in terms of health, it will measure productivity in terms of services and dollars, even though these correlate only weakly with health.[33] Thus the system will tend to maximize on services rather than on health.

B. Inferences concerning medical care system behavior

We shall now attempt to justify the above structure and incentive assumptions by showing they provide a rational explanation of gross medical care system behavior and in particular the problems outlined in Section II. We shall draw inferences on system behavior from the assumptions and document that the inference is confirmed or consistent with research findings.

1. The medical care system will likely be subject to strong demand-pull cost escalation. Because of the reduced out-of-pocket price, the heavily insured will accept a more expensive level of care (assumption 4), which allows providers to follow their powerful incentives (assumption 3) to practice a more elaborate style of care (assumption 2). It is important to note that expenditures should escalate not because the cost of inputs pushes them up (cost-push), but because of unsatiated demand which allows providers to put the insurance dollars into more costly inputs (demand-pull). Expanded coverage under NHI could thus aggravate such cost escalation.

Research Findings: Cost escalation has already been documented in Section I.A.4. Recent economic research suggests this cost escalation is consistent with predominant demand-pull.[34] Thus a kind of Parkinson's Law of medical care obtains: standards of practice rise to absorb the dollars available.

2. The medical care system will likely be characterized by over-elaborate inefficient, cost-ineffective styles of practice. Such "high style" is not necessarily ineffective; it is simply more expensive and wasteful than more efficient, "lower style" practice patterns that are equally effective in producing health. In other words we expect the system not only to be using increasingly more dollars, but to be using them inefficiently. This inference follows from the absence of incentives for efficiency and the strong incentives for inefficiency (assumptions 3, 4, 5, 6, 7). Expanded coverage under NHI could thus aggravate inefficiency.

Research Findings: Hospitals operate at inefficient levels of occupancy,[35 36] suggesting a surplus of beds and service facilities. Moreover, comparison of HMOs (which eliminate externalities and provide strong incentives for efficiency, see Section IV, model 4 below) with traditional fee-for-service practice suggests that equally effective care can be rendered with far less hospitalization than currently used: the few comparative studies of patient end-results in matched populations indicate both styles more or less equally effective,[37 38] but HMOs achieve their results with an average 30–50% less hospital days, fewer physicians, and 10–30% less total cost, per capita.[39–41]

The excessive inefficient use of specialized hospital care is also confirmed by such studies within the traditional system as pre-admission testing,[42] pre-admission screening,[43] pre-surgical referral,[44] out-patient care substituted for inpatient care,[45] in-hospital review,[46] and other studies.[47 48] The tendency of the system to move to highly technological procedures, even before their full value has been established, when equally effective but less costly lower style procedures are available has also been indicated.[49–51]

3. The type and use of services in local populations will likely depend much more upon the organization of the medical care system serving that population than upon the characteristics of the population served. From the great latitude in style of medical practice (assumption 2), it can be inferred that in any area with adequate income and insurance levels (assumption 4), providers can make an adequate income providing elaborate care to the few or basic care to the many (assumption 2); providers thus have considerable latitude to choose the type and quantity of services they will provide. Expanded coverage under NHI could give the medical care system even greater latitude over utilization of services.

Research Findings: Evidence supporting this inference comes from the failure of theories of consumer demand to account for much of the variation in utilization,[52] from the large differences in service and resource use between matched populations served respectively by fee-for-service and prepaid group practice,[53] and from studies demonstrating supply appears to at least in part generate its own demand.[54]

4. Physicians will tend to increasingly specialize in inefficiently excessive numbers. This inference follows from the powerful incentives to do so (assumption 3), coupled with the observation that physicians can always find things to do for patients (assumption 2) which patients will accept in the absence of any economic check (assumption 4 and 6). Expanded coverage under NHI could thus aggravate over-specialization.

Research Findings: The relative increase in specialists and decrease in primary care physicians both in practice and in training is well documented.[55] Evidence that the physician distribution is inefficiently over-specialized comes from comparison with the physician distribution in HMOs,[56] which have strong incentives for efficiency; HMOs produce apparently comparable health results with relatively fewer specialists and relatively more primary physicians than the U.S. average. This result also supports the previous inference, since more specialists will result in proportionately more specialty care.

Physicians will tend to be maldistributed by area, with specialists concenerated in professionally attractive areas. Only general and family practitioners are likely to be geographically distributed more evenly. If insurance and income levels are adequate, specialists can concentrate in professionally attractive areas by using their latitude to provide more elaborate services to fewer people. (Indeed the desire to locate in a professionally attractive but physician-rich area adds one more incentive for physicians to specialize.) There is sufficient flexibility and expansibility in the medical ecology (assumption 2) and enough financing available (assumption 4), that specialists can pretty much avoid competing with each other, even in areas of high specialist concentration,

family practitioners, whose services are not usually covered by insurance, will be under much market pressure to distribute more evenly. Although the cost and distribution problems (Section II) are mainly due to the insulation of specialists from market pressures, perhaps the largest voice in the AMA is the general and family practitioners, who live in a rather more competitive environment. This may play some role in the AMA's failure to perceive the real problems or to come up with a credible strategy for the medical care system. Expanded coverage under NHI could thus aggravate geographic maldistribution.

Research Findings: The geographic distribution of physicians is known to be uneven,[57] with general practitioners showing a moderately even distribution[58] and specialists concentrated in certain metropolitan areas.

There is also some evidence consistent with the above argument that in physician-rich areas on average each physician renders less but more expensive services, and each person receives in total more services, than in physician-scarce areas.[59]

6. Catastrophic care episodes requiring large expenditures should be escalating in cost much more rapidly than all care, and consume an increasing percentage of the health care dollar. This follows from all the incentives for physicians to engage in ever more specialized technological care, coupled with the fact that more and more people are becoming covered by more comprehensive insurance. We can expect this to create a market for medical technology which American science and industry will attempt to fill. Expanded coverage under NHI could thus aggravate catastrophic care escalation.

Research Findings: The best evidence available suggests that in 1970 the top 1% of the population with the most expensive episodes consumed roughly 25% of all health care dollars, and the expenses of this top 1% were escalating 13–18% annually compared with about 10% for all care.[60]

The examples above provide some confidence that the basic structure and incentive assumptions in paragraph A above can plausibly explain gross system performance and are likely to be an important part of any eventual theory of medical care system behavior. These assumptions shall now be applied more speculatively to conditions which may obtain under NHI proposals.

IV. STRATEGIES AND PROSPECTS FOR THF MEDICAL CARE SYSTEM UNDER NHI

In this section we shall ask three questions:

What NHI strategies might successfully achieve health care goals, especially cost containment?

What is the likely impact of each strategy on the future medical care system?

What are the prospects for implementing each strategy?

While an NHI strategy should be capable of achieving each of the major health care goals (Section III), the discussion shall focus on the cost containment issue for three reasons. First, cost containment is central; without it the dollars for the remaining goals will not be there. Second, because of the intimate relation between the medical care system and its financing, cost containment will have the greatest impact on the system. Third, a strategy which does not sufficiently contain costs will be unstable; the nation will keep shifting strategies until cost escalation is held to a tolerable level. Though important in their own right, the other goals—financial protection, equity and effectiveness—would take the discussion too far beyond the scope of this paper, and will be considered only as they limit possible cost containment methods or additionally impact the medical care system.

Footnotes at end of article.

A. Methods for cost containment

The key to medical care system performance apparently lies in its structure and incentives. To determine successful methods for cost containment, we must therefore look at the structure and incentive factors of Section III.A creating cost escalation and inquire what needs changed. Two factors appear crucial: first, third party reimbursement health insurance, which creates artificially low prices for the consumer, gives an open-ended commitment to the provider, and allows the third party little control; and second the powerful cost-raising incentives intrinsic in the present medical care system. To contain costs then, we shall either have to:

Shift much of the payment function from the weak third party to other parties better able to control the price and quantity of services, or

Alter the misdirected incentives in the present medical care system either through internal reforms or external controls, or

Do both.

If the incentives in the medical care system are not altered, the controls on price and quantity—and the incentives on the controllers to effectively exercise these controls—shall have to be correspondingly more powerful.

There are three parties with the potential to control the price and quantity of services: the consumer, the provider, and the government. The major methods for cost containment divide naturally according to which of these three parties assumes control of medical expenses. Strategies for the medical care system (and NHI) will generally combine consistent combinations of all three methods, but may be classified according to which methods are emphasized. The methods may be described as follows:

1. Consumer Cost-sharing: This method shifts the risk and control of medical expense more to the consumer, who can presumably best judge the utility of medical care to himself compared to other things he might purchase. The method is based on altering insurance benefits. If insurance removes the direct cost of care from the consumer, he will have every incentive to use all the care offered him. The consumer can presumably be induced to use care more sparingly if he is made to bear directly some portion of the cost. (He would still be financially protected if his share could not exceed some maximum limit.) Cost-sharing approaches include making the deductible very large ("catastrophic" insurance), or having stiff coinsurance (say 25%). Also the consumer could share the premium. Note that to work effectively, cost-sharing must be simple and uniform. Otherwise the consumer will not know in advance what his cost-share will be when he purchases services. It is doubtful that any consumer knows his cost-share under the present plethora of varying deductibles, coinsurance rates, inside limits, maximum limits and exclusions.

2. Provider Incentives Approach: This method shifts the risk and control of medical expense more to the providers, who can presumably best decide the necessity and most efficient use of care. It is based on preserving but restructuring the private medical care system to alter the present cost-raising incentives. The best articulated examples of this approach are the so-called HMOs, embracing a wide variety of prepaid comprehensive care organizations competing with traditional providers. Other alternative delivery systems with prepaid comprehensive care arrangements also seem possible but are unproven. Consumers enroll in the organization of their choice and pay a fixed monthly premium for all their care. Such comprehensive prepayment to providers reduces incentives for high style and eliminates externalities. Thus these providers must attract and still maintain incomes. Only general and and care for their enrollees within a fixed total budget, which presumably places upon them a powerful incentive to provide economical, effective care. Even greater savings are presumably possible if HMOs and other alternative systems become prevalent enough to put market pressure on fee-for-service providers. Note that for this approach to work effectively, consumers must bear directly some portion of the premium or be allowed to receive additional benefits out of savings. Otherwise there is no incentive to keep premiums down or choose efficient systems. Other incentive arrangements short of HMOs (such as prospective reimbursement) though still unproven, also seem possible, but appear to require greater public intervention and thus verge more toward the public utility approach below.

3. Public Utility Approach: This method shifts the control of medical expense more to the government, which presumably has the requisite power and expertise unavailable to consumers and third parties to control costs. It is assumed that the government can eventually exercise regulatory controls over the inputs, the process and the outcomes of care in any combination and degree necessary until cost escalation is reduced to a tolerable level. Note that for this approach to work effectively, government control must extend universally over all medical care, not just public programs such as Medicare and Medicaid. Otherwise providers will use their latitude to concentrate on more elaborate care for the middle class, and the controls will simply squeeze the poor and the old or shift their costs to private patients.

In the remainder of this section we shall examine six models of NHI which combine these cost control methods in different ways. We may classify these models into two kinds: those which emphasize the first two methods shall be termed "consumer market oriented," for they emphasize a private approach to medical care delivery and minimize government intervention. Those which emphasize government regulation shall be termed "public utility" oriented. By examining the incentives on the various parties expected to exercise control, we may analyze how well the models are likely to contain costs.

B. Two models likely to fail

This section analyzes two models, one consumer market oriented and one public utility oriented, which are unlikely to work well.

Model 1. The present medical care system with universal third party financing:

This model would leave the present medical care system unchanged, and simply extend third party reimbursement insurance to all.

Prospects for Cost Containment: The analysis of Section III suggests this model would simply aggravate every existing problem in the medical care system, particularly cost escalation.

Prospects for Implementation: Because the model leaves existing institutions alone, it can be expected to gain a fair share of support. However, the model seems unstable, it can't last. Runaway costs will force intervention, probably in the form of escalating government regulation since the government will be subsidizing much of the bill. This appears to be the lesson of Medicare and Medicaid, which essentially used this model for the poor and the old: if public financing of medical care is expanded without altering the structure and incentives of the delivery system, runaway cost will drag the government ever more deeply into regulation of the delivery system.*

*The NHI proposals of the American Medical Association suggest that they missed this lesson. Because their proposals expand financing with no credible strategy to contain costs, their proposals are the most likely to hasten the Draconian regulation they fear.

Nevertheless, since it is doubtful that the present strong government entry into health care regulation would have occurred without cost escalation in Medicare and Medicaid, this model may represent one way, albeit a very expensive one, to create sufficient pressure to make the remaining models more palatable.

Model 2. Public utility process controls with universal third party financing: Public utility cost controls in medical care may be divided into two kinds: process controls which try to directly limit the price and quantity of services (such as utilization review, the process medical audit, fee controls, etc.), and input controls which try to limit the manpower, facilities, and total dollars available to provide medical care. This model would extend third party coverage, either private or public, to all and rely on public utility process controls to contain costs.

Prospects for Cost Containment: Our previous analysis (Section III) as well as experience suggest that public utility process controls are unlikely to work well. The great latitude in medical need, the ill-defined nature of health services, and the sheer volume of services rendered suggests the magnitude of the difficulties. Price controls alone will not work, because providers can always increase the quantity and the mix of services (toward higher style), or even redefine the content of services. But to judge the necessity and appropriateness of each service rendered requires not only a huge administrative review apparatus (expensive in itself) but strong provider input. And providers have no incentive to make such review work, and every incentive not to make it work.*

Indeed, process provider review of procedures is as likely to raise costs as lower them** since providers will likely equate high style with quality.[61]

How will the bureaucracy counter such judgments? Under the best of circumstances public utility regulation is vulnerable to capture by the regulated;[62] to attempt regulation in an area so fraught with medical judgment and ambiguity is to virtually invite it.

Evidence to support the above argument is ambiguous but not inconsistent. Review of such research as exists provides little evidence that process controls make any difference, and some evidence that such effect as they do have may wear off rather quickly.[67] Under Phase II and III of the recent price controls, the experience was that annual service price increases declined from 8% to 4%,[63] whereas the annual increase in total expenditures only declined from 12% to 10% [64] (presumably because the quantity and style of services remained uncontrolled). Some of this decline was in evidence before the controls began, perhaps from the recession, so how much can be attributed to the controls is not known. Thus, for a creditable but considerable administrative effort, our most ambitious attempt at price controls so far made at most some decrease in the magnitude of the annual cost increase, and whether this could be sustained is problematic.

Prospects for Implementation: The experience of Medicare and Medicaid suggest process controls are among the easier types of public utility regulation to enact. But like the previous model, this model seems unstable. When this model fails to contain costs, government will try successively stronger process controls and eventually move toward strong input controls. (It is already attempting weak input controls on facilities via Certificate of Need laws.) The danger of this incremental approach to strong public utility controls is that it is not only expensive (e.g., we endure cost escalation until this model is supplanted), it may stifle the medical care system with a mass of fragmented, bureaucratic, expensive, indifferently effective regulatory apparatus which is unlikely to go away when more effective regulation is found. There is no history of deregulation in this country.

C. Four models that might work

This section analyzes four models—two market oriented and two public utility oriented—that might achieve the NHI goals of Section II. The four models chosen were selected because each emphasizes primarily one of the cost control methods in Paragraph A above. We may thereby gain some insight into further models combining all three methods more equally by extrapolating the analysis for these four.

Model 3. Major Risk Insurance:

This model, articulated by Feldstein,[65] carries consumer cost-sharing to a fine art. The intent is to significantly reduce third party financing by placing the consumer at substantial risk for the great majority of his care while still absolutely protecting him from bills large relative to his ability to pay. This is accomplished by totally insuring the consumer for all annual medical expenses in excess of some fixed percentage of his income, say 10 or 15%. Below this threshold, he must pay all medical expenses out-of-pocket. Alternatively, to give the consumer a cost share in even larger expenses, the threshold of complete coverage can be raised to say 20% of income and a coinsurance rate of 50% or 75% can be placed on expenses below the threshold, so that again the consumer is never at risk for more than 10% or 15% of income. Recognizing that for low income persons, even 10% of income is onerous, the coinsurance rate and threshold could be proportionately reduced (income related) on a sliding scale according to income in any way deemed equitable.

Prospects for Cost Containment: Evidence tends to support that heavy cost-sharing can effectively control costs. The more carefully price elasticity of medical care is measured, the more elastic it appears to be. (The argument that the physician, not the patient, controls demand appears to be strictly true only in conditions of unsatiated demand created by third party financing.) Certainly the huge increase in use of services by the poor and old under Medicare and Medicaid shows that price has a substantial impact on demand. Thus in principle the degree of cost sharing can be increased sufficiently to control costs to whatever degree society desires.

A greater concern is that MRI will contain costs at the expense of health, especially of the poor. A thorough discussion of this point is beyond the scope of this paper, but briefly, it seems unlikely that MRI will threaten either health or equity. In principle at least, MRI can be income-related to any degree society desires, eliminating bias against the poor (although too many income-related variations raise questions of administrative feasibility). And if an adequate level of medical care is thereby placed within the ability to pay of every person, there is no reason to think that health should be greatly endangered at our present levels of health care use.*

If beyond this basic standard, consumers elect to put their money to other things, rather than health care which medical experts deem important, it must be remembered that consumer decisions disturb experts in all fields. It is a question of values; individual choice vs. social concern. If after placing adequate medical care within individuals' ability to pay, society wishes to assure equity beyond what individuals would choose on their own, then the price of equity will be greater intervention in the medical care system.

Prospects for the Medical Care System: MRI affords very complete financial protection to individuals and appears able to contain cost, at least below the threshold. This is an extremely important limitation which MRI shares with any cost sharing approach. If there is to be financial protection, then at some point cost-sharing must be reduced to where it becomes ineffectual. At this point other cost control methods must be used. In the absence of controls yet to be specified, MRI is likely to distort the amount of resources going to secondary and tertiary care routinely rendered above the threshold, precisely the area most vulnerable to cost escalation (see III.B.6).

This problem is non-trivial. By Feldstein's own estimate such care presently accounts for more than 30% of the health care dollar. But MRI, by offering complete catastrophic coverage, will greatly increase unsatiated demand** (and may freeze externalities for such care into the system) and create an excessive market for high cost-low benefit technology that American science and industry will rush to fill. Unless controlled, cost escalation of catastrophic care may significantly offset savings in basic care and continue the present maldistribution by specialty and geographic area (see III.B.5).

---

*We stress how powerful these incentives are. For example, given existing excess hospital capacity in the nation, if these controls were to work they would force many hospitals into financial jeopardy if not outright bankruptcy.[65] Again, the amount of specialty work would have to decline substantially. Hospitals and specialists both will work to circumvent the controls.

**The evidence suggests good clinicians may ignore up to half or more of the procedural steps usually included in explicit procedure-based standards. In other words, they use experience and judgment to adjust the procedural mix to the individual patient in ways impossible to formulate into a standard, which must include every step that might be relevant.[66] Outcome studies support their skill in this. Poor end results seem far more often the result of idiosyncratic system linkage failures (between provider and patient, provider and provider, provider and appointment desk, etc.) which seldom appear in standards, and only infrequently are due to omitted or poorly done medical procedures. On the other hand, if cost control begins to pinch, it can easily be imagined that providers will follow all procedural standards to the letter, and there will be no objective way to fault them medically. Cost will be forced up with no improvement in health.

Footnotes at end of article.

*There are no research studies comparing health outcomes in matched populations with and without heavy income-related cost-sharing and further research is needed. The studies looking at service use under non-income-related copayments did not look at health outcomes, but the service variations found did not seem a priori threatening to health.[71,72] Some preventive services were foregone by some persons, but society could subsidize such services if it wished.

** Although data on catastrophic benefits are sketchy, it appears that a substantial number of the population presently have inadequate or no catastrophic protection. One piece of evidence is the number of persons without major medical or comprehensive benefits,[73,74] roughly estimated at somewhere less than half the population. The other evidence is that persons incurring large medical expenditures have unrepresentatively high incomes relative to the U.S. average,[75] implying that lower income persons are inhibited by lack of coverage or stiff cost-sharing at the catastrophic end. (This disagrees with the conclusion of Newhouse et al [76] that catastrophic care is well covered presently. But Newhouse et al do agree that technology could make catastrophic care very inflationary.)

This objection is hardly fatal to MRI, and can be resolved by applying other cost control methods, most likely public utility allocation controls (see Models 3 and 4 below), to catastrophic care. The problems in doing this have been touched on elsewhere.[77 78] However, all these solutions involve important intervention in the medical care system, although rather less than in the models below simply because intervention is restricted to the catastrophic care area. In fact, the infrequent number of episodes which reach catastrophic magnitude may make effective control in this area more feasible than models attempting across the board controls.

Prospects for Implementation: MRI could be administered either publicly or by private insurers. However, in order for the cost containment rationale of MRI to work effectively, MRI must (1) be fairly universal and (2) not be supplemented by basic benefits below the threshold. If some people have comprehensive benefits and some have MRI, it is likely that accepted standards and style of medical practice will be determined under comprehensive coverage (see III.B.3), and MRI will be accused of forcing people to accept second class care. If MRI is supplemented by basic coverage, then the total spectrum of care is covered, and the cost containment rationale of MRI falls apart.

There thus arises considerable political difficulty of implementing MRI. Feldstein [79] believes that MRI would drive out comprehensive health insurance in a competitive situation because it offers complete financial protection at one third the cost of comprehensive insurance. If so, the government need only offer a federal MRI policy (or alternatively mandate that private insurers offer an MRI policy as a dual choice to conventional health insurance), and the market would solve the implementation problem. Such an implementation strategy would be a political godsend, for it requires almost no direct intervention in existing medical and insurance arrangements. Unfortunately there is little evidence that it would work. The evidence from Medicare and group insurance is that individuals will purchase supplementary insurance against deductibles and coinsurance even for very comprehensive policies; [80] and it is unlikely that labor, which bargains for much of the group health insurance market, will consent to give up basic benefits already won.

In at least one instance, MRI in a dual choice situation with conventional benefits was almost totally rejected by a university faculty.[81] Further resistance may come from the insurance industry, whose revenues would be drastically reduced under MRI.

Thus the only recourse to implement MRI would appear to be compulsorily requiring by legislation that no other kind of health insurance could be sold. This seems politically impossible at this time. It would require taking away the great bulk of existing benefits, and there is no example of a country which has been able to successfully remove even modest benefits more than temporarily.[82 83] Imagine the politican or labor leader who must report to his constituency that he has just given up all their basic health benefits!

In sum, MRI supplemented by catastrophic care controls appears to be a very promising option which creates the least interference in the medical care system, but there is no simple way to get from here to there. A great deal of public information, debate and understanding would be necessary to make this option palatable.

Model 4. Alternative Delivery Systems Competing Under Universal Coverage: This model was first articulated by Ellwood et al [84] as a general strategy for restructuring the private medical care system to contain cost and improve equity and effectiveness. Its application under various national health insurance plans has been discussed by McClure [85] (although national health insurance is not a prerequisite to implementing the strategy). This approach stresses the provider incentives cost containment method above, with the idea that if the structure and incentives of the private medical care system can be properly set, the system will work out the myriad details to achieve public goals on its own without the necessity of detailed government involvement. The model would stimulate a variety of prepaid medical care organizations with improved structure and incentives, competing with each other and traditional providers. Under universal coverage, people are entitled to federally specified health care benefits and receive an income-related subsidy or voucher to purchase them.

The voucher may be applied to any of several qualified plans—whether one of the new alternative systems or a conventional third party insurance plan (public or private) using traditional providers—which compete on price and extra benefits. The consumer pays the difference between the value of his voucher and the price of the plan he chooses.

Prospects for Cost Containment: Both analysis and evidence from research suggest this model might contain costs if it can be implemented. In the new alternative systems consumer choice, prepayment and the elimination of externalities provide new incentives for efficient, effective care. Prepayment direct to the provider organization rather than a third party compels the provider to work from a fixed budget, so that he must be cost conscious. Because it is comprehensive, the provider organization can capture the savings from reduced use of hospital and specialty care and apply them to primary care. And because the consumer has a choice, the provider organization must continually strive to satisfy him. Consumer choice is strengthened because the consumer does not make decisions on individual services but rather on an entire comprehensive care organization, which is large enough that he can get information from several of his neighbors (more objective information along the lines of "Truth in Health Care Coverage" could also be made available). And he makes his decisions in advance, uncomplicated by the presence of illness. The broadening of consumer choice to include new alternative systems further implies that traditional providers will now also have to offer more economical care in order to compete for consumers.

Evidence tending to confirm the above arguments is of three kinds. First, existing mature HMOs show savings averaging 10–30% over traditional providers while achieving equally effective results.[86] Second, while more careful research using matched populations is needed, preliminary figures suggest that new HMOs perform much like mature HMOs;[87] this implies that HMOs are apparently a structural solution independent of the particular physicians and managers involved. Third, virtually all existing prepaid medical care foundations have formed in response to competition from HMOs, implying that competition by alternative systems can impact the behavior of traditional providers. If these findings are generalizeable—and it seems highly probable that they are [88]—this model should effectively reduce cost escalation if alternative systems become sufficiently numerous.

Indeed if alternative systems become sufficiently numerous, it can be argued that greater savings become possible because they will begin to affect the price of inputs. Present savings in alternative systems are achieved by controlling the use and mix of resources, but the price of resources—the price of a surgeon, for example—is determined by the larger traditional system. If alternative systems become numerous enough to reduce the demand for high style resources, the price of such resources should fall.

Financial protection and equity should be improved in a pluralistic medical care system of competing, comprehensive alternative and traditional provider plans and universal coverage. Perhaps the greatest concern is that the incentives for economy may lead prepaid medical care organizations to underserve members to the point of jeopardizing health. It should be noted that peer review (inherent in organized medical care systems) and consumer choice act as incentives to maintain quality, and that the meager research on quality in mature HMOs does not substantiate this charge.[89] But the troubles with the new prepaid Medicaid plans in California (which are not strictly HMOs because the consumer market is limited to Medicaid recipients) suggest some alternative organizations may try to underserve.[90] Although even there the market seems to be working—Medicaid recipients by disenrolling seem to be shaking out the bad actors rather faster than the state has been able to disqualify them—some form of enabling regulation to prevent bad actors from getting into the business seems desirable, as well as on-going quality assurance controls. (Parenthetically, we wish there were equal concern that fee-for-service providers may be overserving to the point of jeopardizing health. The omission of necessary services appears no less dangerous than the over-provision of unnecessary services.[91] The same small minority of lax professionals who would presumably deliberately underserve in new alternative systems are with equal probability now overserving in the present system. Quality assurance needs attention right now in both systems, and the means to do it are within reach if we have the will.[92])

Prospects for the Medical Care System: Under this model the private medical care system would be preserved but significantly restructured. At least half of medical professionals would be providing service through more or less integrated prepaid medical care organizations. Probably the majority of these would be hospital-based multispecialty group practice situations, since they are likely to be more efficient and attract more consumers. The majority would also be provider sponsored, since this is likely to appeal most to providers. Quality assurance regulation is also likely to be present in both the traditional and alternative systems.

Prospects for Implementation. Like MRI, this model is a most promising option with severe difficulties in implementation. In its favor, this model can be incrementally approached (see Section II constraints 1 and 2). The government can try to stimulate alternative systems by removing existing market, legal and administrative barriers to their development.[93] Under such a "fair market" climate, efficient alternative systems would be expected to compete well and grow. Some effort is being made in this direction now.[94]

But the creation of alternative systems requires private initiative, particularly by physicians (pressure from large group buyers would also help). But physicians are quite comfortable in the present system, and have little motivation to change. Hence they are content with resisting change rather than proposing credible change strategies of their own. Alternative systems also must win acceptance from consumers (especially large group buyers); but there is little public understanding of them presently, and in a down economy comprehensive coverage is hard to sell.

Alternative systems also face difficulties from public utility regulation because it largely ignores the fact that their structure and incentives, and therefore their performance and their needs, are different than traditional providers. Thus alternative systems

Footnotes at end of article.

find themselves regulated for the sins of others. This not only destroys any incentive for professionals to enter alternative systems to escape cost controls in the traditional fee-for-service system, it can directly inhibit alternative systems. As just one example, HMOs use half as many beds per capita as the national average, yet they are all subject to Certificate of Need bed controls.

They must go through the lengthy, uncertain application process just the same as the worst offending traditional hospital. Not only may they find themselves without beds for a growing enrollment, they may find the agency captured by their traditional system competition and used to keep them from even getting into the market.[95] Thus present public utility controls, especially market entry controls, are at best a hindrance and at worst a danger to alternative systems.

These inhibiting factors combine to suggest that without greater understanding by both public and private decision-makers, there will be too few alternative delivery systems in the next few years for private restructuring to constitute a major force in a cost containment strategy, even though it would probably work.

Model 5. The Public Utility Allocation Model (alias the British model):

This model has only one essential feature: it puts a "lid" on the total health care budget. That is, the government decides in advance how much shall be spent each year for health care, and has some mechanism to allocate this amount, and no more, to the medical care system. A number of variants are possible depending on the allocation mechanism, ranging from a national health service [96] (somewhat analogous to the education system) in which all providers are employed by the government, to a tight public utility arrangement in which all private inputs—manpower, facilities and money—are to some degree controlled by the government. Common to all these variants will be a division of the country into health care districts headed by a district health care board which allocates resources to district providers from a fixed district budget. People in the district are entitled to comprehensive health care from providers in the district. There may be nominal cost-sharing by patients, but the majority of provider payments comes from the district board. Private third parties, if present, serve only as intermediaries.

Prospects for Cost Containment: Both analysis and experience suggest this model might contain costs. The point of the analysis is that unless the budget is fixed in advance, public utility controls are unlikely to work well. Conversely, unless there are quite strong public utility controls on inputs, it will be difficult to keep within the fixed budget. With both a fixed budget and controls, cost containment is likely to be successful.

The reasoning is as follows: In Model 2 it was shown that process controls (e.g. controls on individual services) are unlikely to work well. A far less demanding way to control the volume of procedures is to limit the number of professionals performing them. A less demanding way to control style is to limit the number of specialists and the amount of facilities and technological equipment available. On the other hand, what these limits should be is a matter of medical judgment. How is the district board to limit the demands of the medical care system for more manpower, facilities, and equipment, when all such demands will be defended as improvements in health care? The only response government can finally make is that funds are limited. The government will therefore have to use its limited funds as an incentive and control on providers by fixing the district health care budget. When providers recognize that the demands of one provider for more means that the others get less, there will be a powerful incentive for all providers to agree on a defensible set of priorities and a method of allocating resources. There will also have to be strong controls so that providers can not individually ignore the priorities and wangle more resources than agreed on. Given a fixed budget, providers themselves are likely to help the district board make the controls work, so the controls are likely to succeed.

Two kinds of evidence suggest that this model will work: the experience of England, and of HMOs. The British use an allocated fixed budget, and have had the least cost escalation of all the western nations. This is to be contrasted with Canada, which has a multitude of public utility controls but an open-ended budget based on reimbursement of whatever is done. In 1971 Canada spent an estimated 7.1% of its GNP for health care [98] and its annual increase in expenditures averaged an estimated 12% over the previous decade.[97] The comparable figures for England were 5.3% of a much smaller GNP in 1973 and 9.2% average annual expenditure increases. This evidence suggests not only that a fixed allocated budget can contain costs, but that without it public utility controls do not work well. While complaints are often voiced about the British system, such complaints seem due more to the fact that England is not a rich country than to the organization of their medical care system; if they spent as much per capita as the U.S., these complaints would likely diminish. The point is that they have control.

If they stand in long queues for elective hospital care, it is because they have decided to spend the money for other national priorities. They can decide and the United States presently cannot. With their health statistics equal to ours and their expenditures far less, it appears that their system, whatever its shortcomings, has given them a tremendous bang for the pound.

A second kind of evidence comes from HMOs. In effect, HMOs are privately operated mini-Englands with consumer choice. Each HMO works under a fixed budget and allocates its resources according to priorities. Again the results (see Model 4) show cost containment and a bigger bang for the buck.

This model provides excellent financial protection, and if district budgets are proportioned on a per capita basis, equity should be quite good. Perhaps the greatest concern with the model is bureaucratic rigidity and the danger that the system will be run more for the providers than the consumers. Both of these concerns are common failings of public utility systems.[99] While the consumer will have at least some choice as to provider, unlike Model 4 he will have no choice as to system. The district board must therefore be made responsive to consumers in some way. The problems and political implications of this have been discussed by Flash.[100]

Prospects for the Medical Care System: Careful analogies drawn from the school system probably offer the best foresight into this model. Thus providers will probably not make their own opportunities so much as be presented them by the district boards. The district boards in negotiation with providers will likely determine the number and location of positions open in each specialty, and the size and type of services to be offered at each facility. Professionals will be much more bound by the actions of their peers, and professional "unions" or their equivalent are not unlikely. Innovations will likely have to come through consensus rather than individual action, and meet the approval of established providers.

Prospects for Implementation: The prospects for implementing this proposal all at once are very slim, as experience with the Kennedy-Corman bill, a fixed budget public approach, indicates. Rather it will have to be incrementally approached, and each step is likely to be strenuously resisted by providers and probably by insurors. Moreover, if consumers are given no cost-share under this model, only government will be interested in cost containment; government will then muster little public support to implement successively stronger controls. Since cost-sharing is extremely difficult to restore once it has been removed [101] government should not be too generous at first. It can then trade reduced cost-sharing for public support of more stringent controls.

In sum, it is likely that this model will work, but the strength of the controls needed suggest the nation will take a long time getting there. However, the possibility to incrementally implement the model greatly improves its eventual political prospects. The danger is that the nation may try to approach this model through Model 2 first. Model 6, presented next, may offer the more advantageous approach.

Model 6. The Public Utility Hospital Model:

This model is the least articulated of the four that might work. It starts with the observation that the most substantial and rapidly inflating portion of the personal health care dollar goes for hospital care, presently about 45% of personal health care expenditures.[102] Comparatively, the amount going to physician services (21%), and especially just to inpatient physician services (an estimated 9%), is small relative to the hospital expense induced by the physicians' activity. Moreover, the number of hospitals (less than 7000) seems far more manageable than the number of practicing physicians (almost 300,000), and physicians seem to have the professional and political power to maintain their incomes in all western countries no matter what their medical system. This suggests that controlling the physician portion of the health care dollar may be very difficult, but on the other hand it may be possible to contain the more substantial induced hospital costs that physicians cause by concentrating public utility controls mainly on the hospitals rather than on the entire system as in the previous model.

Under the impetus of Medicare, the Cost of Living Council, and some of the states, considerable work on hospital reimbursement and regulation has been initiated.[103 104] But little work has been published which looks down the road to coherent models of where such regulation might or should lead. Somers [105] has conceptually pioneered a model of the hospital as the integrating structure for the medical care system, but so far analysts have given little attention to the incentives and controls to make this structure perform any differently than the present system. The following analysis offers some considerations as to the necessary structure and incentive changes that may be required before such a public utility hospital model might realistically be expected to work.

The analysis starts with the basic structure and incentive assumptions of Section III.A, to which we now add two additional incentive assumptions particularly relevant to hospitals.

Hospitals are dependent on physicians for patients, and therefore compete for physicians rather than for patients directly. Financial viability, and the stability afforded by financial growth, is a basic incentive of most organizations. For hospitals, revenues come primarily from patient care. The hospital is dependent on its medical staff for both patients and the supervision of care. But the physician medical staff is actually independent of the hospital. Thus hospitals appear to basically compete for doctors, and can be expected to do whatever is necessary to attract them. If the physician wants a bed, the hospital will do its best to have

Footnotes at end of article.

one available; if the physician wants to do cobalt therapy, the hospital will try to have a unit for him.

There are additional strong incentives for hospitals to increase bed capacity and the style of services offered.[106] Peer reputation is a powerful incentive to hospital administrators and boards. Reputation apparently accrues from size of the hospital, reputation of the medical staff, and the elaborateness of services offered. Hospitals appear to compete with each other over all these aspects. Additionally, administrators find building their hospital program professionally rewarding, and size can add financial stability if it can be financed. In the absence of patient outcome monitoring, all these incentives are reinforced by the tendency of physicians, hospitals, and the public to equate high style with quality.

With these additional assumptions, a number of inferences can be drawn concerning present and future hospital behavior.

Hospitals will tend to overbuild and overuse bed capacity and specialized service units. The above incentives on hospitals all point toward overbuilding in their efforts to cater to physicians and increase financial strength and prestige. The costs will be passed on to third parties (assumption 4, Section III.A). (Evidence shows this is already the case, see III.B.2).

The provision of ambulatory facilities and ambulatory health insurance benefits will likely add to, rather than substitute for, hospital services under the present medical care system. Both physicians and hospitals have powerful incentives to increase hospitalization, and few incentives not to. In the presence of excess capacity, hospitals are likely to move strongly into outpatient care as a source rather than a substitute for inpatient admissions. (Existing evidence is consistent with both points, showing little substitution under ambulatory benefits[107] and an increasing growth of hospital outpatient units.[108])

In the presence of simultaneous excess capacity and growing government cost control pressure, hospitals are likely (a) to accept regulation which limits competition (Certificate of Need is an example) and (b) to seek strength through bigness via affiliations and multi-hospital firms. As government tries to slow the growth of the medical care pie, hospitals recognize that if any one of them tries to expand too rapidly it may mean a smaller slice for the others, as well as increased pressure on all. Regulation of new investments has frequently been accepted by producers in such situations[109] as the best way to keep out new competitors and force existing producers to respect the present division of the market. On the other hand, the growth of larger and fewer third parties, in particular the government, should also lead hospitals to start affiliating and merging into larger multi-hospital firms to gain greater financial strength, market rationalization and political counter-muscle.*

Since strength rather than efficiency may be the more powerful motive—economies of scale at large hospital and multi-hospital sizes are unproven and may be outweighed by diseconomies[110]—such alliances may result in hospitals growing to uneconomic sizes if the costs can be passed on to third parties. (Certificate of Need laws are present in two-thirds of the states[111] and are required under the new federal planning law, PL 93–641. Cooperative ventures and multi-hospital affiliations are in their infancy but seem to be spreading.[112])

Weak third party payers, rather than cost reimbursement appears responsible for the cost pass-through to third parties. Incentive reimbursement of fee-for-service hospitals is unlikely to change things unless all such hospitals and all third parties are required to participate. It makes little difference whether hospitals are reimbursed for costs or for charges if the third party is too weak (III.A.4) to control the rise in either. Voluntary incentive reimbursement and rate review schemes are likely to fail in the presence of competing hospitals, since no hospital will intentionally jeopardize its financial stability and ability to compete for physicians. If the reimbursement scheme is not mandatory, the hospitals will use their latitude to concentrate on elaborate service to fewer patients, to refuse subscribers of unfavorable third parties (including Medicare and Medicaid beneficiaries) or to pass costs to weaker third parties.

Any public utility regulation of hospitals is unlikely to succeed unless it can overcome the powerful structure and incentive pressures above. The arguments advanced under Model 2 and Model 5 seem equally convincing here: successful direct regulation of the quantity and style of individual hospital services appears unfeasible, and regulation of inputs also seems unlikely to work in the absence of a fixed total budget. Thus a public authority or board with a fixed total budget for all hospital expenditures in its area will be assumed a minimum ingredient in any public utility hospital model.

Second, this District Board must have sufficient powers to assure that the hospitals in its district do not exceed this budget, taking into account that the medical staff are a principle determinant of what hospitals do. In particular, it must be able to severely dampen or redirect the competition of hospitals for physician staff, and the demands of the physician staff for more elaborately equipped institutions. Thus it is highly probable that any effective public utility hospital model must give the Board at least some regulatory power over hospital medical staffs as well.

For discussion, one potentially effective model will be suggested here. There may be other effective models less stringent, but present evidence leaves doubt that controls a great deal less powerful will be effective. Thus this model may indicate the nature of what is involved to make the public utility hospital concept work.

1. The nation would be divided into hospital districts. In each district a Board would be established with control of all hospital payment dollars in its district, including both hospital services and inpatient physician services. If private insurers are retained, they will pay a stipulated capitation for each subscriber to the District Board (insurers thus function as intermediaries and bear no risk for hospital care). If private insurers are eliminated, the District Board would receive the capitation from whatever federal, state or local tax mechanism was established. All hospitals in the district would be paid directly by the Board.

(In this way the third party effect is reduced to a single Board which, because it has only a fixed sum of capitation money, has an imperative incentive to control cost. From experience, this would appear to be the only incentive powerful enough to make the Board not yield to the intense pressures of its hospitals for more money. Clearly there must be checks on the Board arbitrarily raising the capitation amount; for example, the capitation could be stipulated by the federal government, the state or local government.

2. The Board would have power to fix the budget, the size, the type of services offered, and the number of medical staff positions in each specialty in all hospitals in the district. The Board would annually negotiate each of these items with each hospital, subject of course to the Board not exceeding its own budget. Each hospital would have to cover its service costs and pay its medical staff for inpatient services from its annual budget, but could do so in any manner it desired. If a hospital is unable to stay within its budget or maintain acceptable quality, the Board shall have the power to reorganize that hospital's management. (These controls set severe limits on the hospitals' ability to compete for doctors, services and beds, and give hospital management a powerful incentive (threat of reorganization) to stay within its budget. In turn, the hospital is given much greater control over its medical staff, since it now decides how they shall be paid for inpatient services, and medical staff positions are limited. The medical staff will know that requests for elaborate equipment, convenient operating room hours, etc., will come out of the same budget from which they are paid, and can be expected to moderate their demands. The Board has general control over the amount and distribution of services performed in any hospital by virtue of controlling the number of specialty positions, service mix and size of the hospital. The Board can thus distribute hospital services and medical staffing throughout the community as it deems best. It can reward efficient hospitals by granting them additional resources, and penalize inefficient hospitals by taking them away. The Board may also choose to buy tertiary care from other districts rather than maintain its own; some federal or state control may be necessary to prevent districts in professionally attractive areas from augmenting their budget from such sales to the point where they monopolize specialty care. Physicians could be expected to hospitalize less since their fees for non-inpatient care would not be controlled in this model; presumably ambulatory care would be subject to stiff consumer cost-sharing for all but low income consumers, exerting a market control on ambulatory care fees.)

In the absence of experience, it is of course conjecture that controls this powerful will be necessary before cost escalation and maldistribution are held to acceptable amounts. It may be possible and more desirable, for example, to use an incentive reimbursement scheme rather than negotiation to allocate the fixed budget. But even with such variations, given the strong incentive on hospitals and the failure of existing regulation to work well, good arguments can be made that without a fixed budget and at least some regulatory power over hospital budget, size, service mix, and medical staff, it will be possible for physicians and hospitals to get around the Board, causing costs to rise excessively. With these controls, it seems quite possible that the Public Utility Hospital Model could be successful. It may succumb to the usual problems of public utility regulation—protection of existing firms, administrative rigidity and inhibitions toward innovation—but cost should be contained and distribution should be equitable. Thus should the nation elect this path, this analysis suggests one down-the-road look at where we may end up.

Prospects for Implementation: Although less sweeping than the previous model, the controls necessary for this model to work effectively are sufficiently strong that they face formidable political obstacles. On the other hand, this model appears to have the best eventual political chances of any of the four models above because it can be staged incrementally. The question is one of time, how long it will take before the necessary controls can be enacted and given sufficient clout to be effective.

Before the District Boards can be given a fixed budget, there will have to be an NHI plan giving universal hospital benefits to all persons in the district. Thus the control most indispensable to the model must await the

*This should spur a new interest in shared services . . . by government hoping to encourage efficiency, and by hospitals hoping to initiate alliances.

Footnotes at end of article.

enactment of NHI. The remaining controls can be started on now. The first step would be to divide the country into districts and begin building an administrative structure in each that would eventually become the District Boards. The next steps would be to successfully give these agencies more control over hospital size, reimbursement, service mix, quality, and eventually (and most politically difficult) hospital medical staffing. While it may be necessary that the controls are initially very weak in order to get enactment, the strategy would be to set precedents and then tighten them with subsequent legislation. Hopefully this strategy could proceed swiftly enough that by the time NHI was enacted, the structure and necessary precedents would be sufficiently in place for NHI to simply supply the capstone. If it proceeds too slowly for this, NHI could prove very inflationary, but this very pressure might speed implementation of the model under NHI.

The nation appears well along the road on this agenda. At least some supporters of the new HSAs apparently envision them as the eventual District Boards.[113] Precedents for control of hospital size and service mix already exist in the federal planning law creating the HSAs. Precedent to shift PSRO regulation from the local medical societies to other organizations (the HSAs?) exists in the PSRO law should the medical societies falter. (Conflict of interest difficulties make it not improbable that many of them will falter.) Regulation of specialty positions has only been raised so far in medical education bills, and has so far been defeated; the issue seems unlikely to die, and will be back again. Certainly any precedent in this area will be over the solid opposition of organized medicine, but cost pressures are eroding their strength.

The ease of implementation of this model thus rests on incrementally building on previous regulation. At each point the regulation is minimally disruptive; the government, bearing uncontrollable Medicare and Medicaid costs, has a powerful incentive to act; and the people, paying ever higher prices and premiums, will support the action. As in the previous model, perhaps the greatest danger to this strategy would be the too rapid elimination of private insurance and consumer cost-sharing. Once people were not faced with the high cost of care, they might be less likely to support firm government action.

V. WHERE ARE WE HEADED: SOME CONCLUSIONS

Perhaps the general conclusion to be drawn from the above analysis is that the structure and incentives producing the problems in our present medical care system are very strong and deep-rooted, and that adequate strategies to alter or counteract these incentives require substantial change that will be politically difficult to achieve. Of the four models examined that might work, our analysis suggests:

The Major Risk Insurance Model would make the least overt change in the medical care system, requiring stringent controls only in specialized secondary and tertiary care. However, benefits must be legislated away to implement the model. But the political tendency in this and other countries is to erode cost-sharing. Thus it seems politically insuperable to obtain the kind of cost-sharing MRI requires, and equally difficult to sustain it if we ever did.

The Alternative Delivery Systems Model preserves a pluralistic private medical care system, but involves substantial restructuring from the present system. The restructuring could occur in an evolutionary, incremental way, but there are presently few signs of the necessary private initiative or understanding to bring it about on the scale needed to make it effective generally.

The Public Utility Models involve the greatest public intervention into the medical care system, most likely requiring fixed total budgets and public control over at least medical staffing and reimbursement in hospitals, and hospital size, service mix and reimbursement, before they would work well. Although such controls can be approached incrementally, and government is strongly motivated to contain cost, it seems improbable that this magnitude of public intervention can be politically countenanced in the next few years.

A second conclusion is that the models politically most easy to fall into—generous financing with few or inadequate controls on the existing medical care system (Models 1 and 2)—are the most likely to aggravate and even rigidify all our present health care difficulties. While cost and equity pressures will eventually force us to more successful models, it will simply be longer, harder and more expensive to work our way out, and we may not come out as well.

A third conclusion is that there seems no technical reason not to incrementally proceed on all the potentially successful fronts at once—cost sharing, alternative delivery systems and other provider incentive mechanisms, and public utility regulation aiming toward an allocated budget approach—before we attempt NHI. An eventual model marrying both consumer market and public utility cost containment methods may be more effective and even more politically acceptable in the long run than the more single-minded approaches advanced in the models above. It would appear from the analysis that the health care dollar spectrum can be divided into regimes where each method might work most optimally: Cost sharing would seem to work best on "first" dollars (e.g., ambulatory physician visits) where health care is very elective and the consumer's decisions less difficult. Provider incentives might work best on first dollars and "middle" dollars (e.g., common hospital episodes) where consumer knowledge is inadequate and the volume of services makes regulation difficult. Public utility regulation might work best on middle and "last" dollars (e.g., specialized secondary and tertiary care) where financial protection precludes cost sharing and heavy but equitable constraints on very expensive technology are needed.

On cost-sharing, at a minimum the Congress could use its insurance regulatory powers to make cost-sharing simple and understandable to the consumer, so that when he purchased health care he would know exactly what his liability would be. For example, every insurance policy could be required to have only one deductible, one coinsurance rate, one maximum limit, and no inside limits, which apply to all benefits covered in the policy and are clearly stated on the cover. This might be one part of a larger "Truth in Health Insurance" act. (More ambitiously, the Congress might additionally consider mandating that every insurer offer a federally specified non-income related Major Risk Insurance policy (say, threshold $2000, coinsurance 50%) as a dual choice to all group policies currently sold. No insurer would be permitted legally to sell a supplemental policy to a holder of MRI. Any employee electing MRI would receive the dollar difference between the MRI premium and his present group benefits as tax free income; since it is now tax free,[114] this would cost the country nothing, the individual would not be coerced, and bargained benefits would not be disturbed. It could then be determined whether consumers would choose MRI voluntarily). While cost sharing might never be prevalent enough to contain costs by itself, it will help. And if there is no cost-sharing, government will find poor public support in its efforts to contain costs.

With respect to alternative delivery systems, Congress could make the HMO Act more flexible to encourage a greater variety of prepaid medical care organizations, improve the reimbursement formula for qualified alternative systems under Medicare and Medicaid, and remove inconsistent regulation, such as Certificate of Need, from qualified alternative systems. Even if such alternative systems never become prevalent enough to contain all medical care costs by themselves, they will help.

With respect to public utility regulation, the Congress through its legislative authority over insurance could give the HSAs power to set fee-for-service hospital reimbursement rates uniformly for all insurers in its area. This would convert the country into a massive set of non-voluntary incentive reimbursement* experiments. Reimbursement authority is an appropriate precedent, should HSAs eventually control total district health care budgets. In the absence of fixed budgets, the Congress will have to devise an effective carrot or stick to motivate the HSAs to effectively exercise their authority—not an easy task. Even if the HSAs do not succeed in containing hospital costs without a fixed budget, reimbursement controls will at least set a precedent for the day when fixed area-wide budgets are possible.

In practice such a multi-model approach may be difficult to keep consistent. The greatest administrative effort will necessarily be devoted to public utility regulation of the fee-for-service system, which may tend to build a large constituency in the bureaucracy sympathetic to this approach, so that the other approaches are neglected.

A final consideration in where we may be headed is the political line-up itself. The Administration and three of the four Congressional committees which handle health legislation are normally characterized as moderate to conservative. The recent passage of strong regulatory health legislation (PSRO, HSAs), in the public utility vein—especially at a time when conservatives are considering deregulation in other industries—may therefore come as a surprise, and requires some explanation.

One explanation may lie in the perceptions of the various contending forces. One group, primarily liberals, have long been convinced that change is necessary. They see health care as a merit good in which price and market competition have little place; government must step in strongly and guarantee equitable access. A second group are practical, action-minded non-idealogues who see problems in the programs for which they are responsible. They are looking for the fastest way to get on top of their problems, and regulation appears the most immediate way to move. The last group, the conservatives are still fighting the battle between change and no change.** Consequently, the conservatives are not writing much legislation for the health care system, whereas the other two groups, although not always in step with each other, are constantly coming forward

*The stringency of incentive reimbursement should not be tied to superficial efficiency criteria such as occupancy; clearly, if the HSAs are successful at reducing hospital days per capita, existing hospitals will be running at lower occupancy unless we close beds. Reimbursement formulae might better become more stringent based on keeping average hospital days per capita in the area, and average hospital days per staff physician in each hospital, within desired tolerances.

**The AMA for example, spent great effort fighting the HMO Act which is an effort to reform and maintain a pluralistic, private system of medicine, whereas they gave rather token opposition to PSRO (perhaps because they believe doctors will run it), which creates an administrative structure with powerful regulatory potential where nothing existed before.

with regulation-oriented bills. But even the conservatives must face the problems, which do not go away, especially the cost escalation problem. Having no strategy of their own for the medical care system, they must use whatever legislation is on the table, which is regulation-oriented. Thus the regulation-oriented bills may pass or fail depending on the pressures of the moment, but they keep coming back. They are the only credible ideas on the table.

Considering the time and difficulty consumer market-oriented approaches will have in mustering sufficient private initiative to actually begin bringing the problems under control, and that conservatives are still hung up on whether change is necessary, the public utility-oriented approaches seem more likely to prevail, that is, unless the conservatives have a rather quick change of heart and convince the non-idealogues that a reformed consumer market does have a place in the future medical care system. Perhaps the major question now is whether the regulation will be coherent and unified, or fragmented and inconsistent. This depends on whether all the proponents of regulation understand how powerful the regulation will likely have to be before it becomes effective, and whether they agree on where the system is headed down the road. Even so, acquiring the necessary control will take much time and difficulty despite the fact that it can be approached incrementally.

A second question is whether the American public understands and accepts the change that will be required in their medical care system. The difficulty of implementing any workable approach is likely to require reasonable public consensus. If the public is divided on what should be done and what the future medical care system should be, this may frustrate a rational public utility approach.

Thus it is hoped that public understanding and consensus might be built by having public figures hold up the different alternatives for the future medical care system to public scrutiny and debate. Should we enact a generous national health insurance plan with only inadequate, inconsistent controls instead of a rational strategy for the medical care system—be it market-oriented, utility-oriented, or both—the nation could take a fairly expensive bath.

FOOTNOTES

[1] M. Feldstein and B. Friedman, "Tax Subsidies, the Rational Demand for Insurance and the Health Care Crisis" Discussion Paper No. 382, Harvard Institute of Economic Research, (Sept 1974).

[2] R. Rosett and L. Huang, "The Effect of Health Insurance on the Demand for Medical Care," Journal of Political Economy 81, 2 (March 1973) 281.

[3] M. Feldstein, "The Welfare Loss of Excess Health Insurance," J. Pol. Econ. 81, 2 (Mar 1973) 251.

[4] M. Mueller, "Private Health Insurance in 1973," Soc. Sec. Bulletin (Feb. 1975) 21.

[5] Report of the Catastrophic Illness Conference, National Center for Health Services Research, HEW, Rockville, Md. (Dec 1, 1974).

[6] N. Kouchoukos et al "An Appraisal of Coronary Bypass Grafting," Circulation 50 (July 1974) 11.

[7] E. Corday, "Status of Coronary Bypass Surgery," JAMA 231, 12 (Mar 24, 1975) 1245.

[8] H. Hiatt, "Protecting the Medical Commons," New Eng. J. Med. 293, 5 (July 31, 1975) 235.

[9] Center for Health Policy Research, "Health Insurance: What Should Be the Federal Role," American Enterprise Institute, Washington, D.C. (Jan. 22, 1975).

[10] R. Anderson, Testimony in Hearings on National Health Insurance before the Subcommittee on Public Health and Environment of the House Committee on Interstate and Foreign Commerce, 93rd U.S. Congress (Dec. 14, 1973).

[11] K. Davis, "Health Insurance" in C. Schultze et al., "Setting National Priorities: the 1973 Budget" (Brookings Institution, Washington, D.C., 1973), 213.

[12] L. Aday and R. Anderson, "Access to Medical Care" (Health Administration Press, Ann Arbor, 1975).

[13] D. Kessner, "Myths Revisited: National Health Insurance Improves the Health of the Poor," 102nd Annual Meeting of A.P.H.A. (Oct. 22, 1974); see also R. Wilson and E. White, "Changes in Morbidity, Disability and Utilization . . . 1964 and 1973," ibid.

[14] "Utilization of Short-Stay Hospitals in 1971," National Health Survey Series 13, No. 7 (HEW, 1974); see also "Surgical Operations in Short-Stay Hospitals," Series 13, No. 18, ibid.

[15] J. Wennberg and A. Gittelsohn, "Small Area Variations in Health Care Delivery," Science 182 (Dec. 14, 1973) 1102.

[16] R. Maxwell, "Health Care, the Growing Dilemma," (McKinsey & Co., New York, 1974).

[17] R. Auster et al., "The Production of Health," J. Human Resources IV, 4 (Fall 1969) 411; see also, for example: N. Glazer, "Paradoxes of Health Care," Pub. Interest 22 (Winter 1971) 62; W. Barton, "Infant Mortality and Health Insurance Coverage," Inquiry IX, 3 (Sept. 1972) 16; "Regional Variations in Mortality from Heart Disease," Statistical Bulletin of the Metropolitan Life Insurance Co. (Nov. 1972) 3.

[18] P. Ellwood et al., "Assuring the Quality of Health Care," (Interstudy, Minneapolis, 1973) Chap. 3.

[19] R. Brook, "Critical Issues in the Assessment of Quality of Care," J. Med. Ed. 48, Part 2 (April 1973) 114.

[20] N. Worthington, "National Health Expenditures," Soc. Sec. Res. and Statistics Notes, No. 1–1975 (HEW, Feb. 19, 1975).

[21] C. Schultze et al., "Setting National Priorities, the 1973 Budget" (Brookings Institution, Wash., D.C., 1973) 9–16.

[22] B. Stuart and R. Stockton, "Control over the Utilization of Medical Services," Milbank Mem. Fund Qtly. 51, 3 (Summer 1973) p. 341; see also "Rising Medical Costs in Michigan" (Report of the Technical Work Group on Health Care Costs, Mich. Dept. of Soc. Services, Lansing, July 1973).

[23] P. O'Donoghue et al, "An Evaluation of Policy Related Research on the Effects of Health Care Regulation" (Policy Center, Inc., Denver, 1975).

[24] J. Bunker and B. Brown, "The Physician Patient as an Informed Consumer of Surgical Services," New Eng. J. Med. 290, 19 (May 9, 1974) 1051.

[25] C. Aring, "The Place of the Physician in Modern Society," J. Amer. Med. Assoc. 228 (1974) 177.

[26] Profile of Medical Practice in 1974 (Amer. Med. Assoc., Chicago, 1974) Tables 50, 52, 64; see also Ref. 59.

[27] J. Maloney, "A Report on the Role of Economic Motivation in the Performance of Medical School Faculty," Surgery 68, 1 (July 1970) 1; see also M. Roemer, "On Paying the Doctor and the Implications of Different Methods," J. Health and Hum. Behav. 3, 1 (Spring 1962) 4.

[28] J. Simanis, "International Health Expenditures," Soc. Sec. Bull. (Dec. 1970) 18; see also Refs. 16 and 82.

[29] See Ref. 4.

[30] R. Trussel et al., "The Quantity, Quality and Costs of Medical and Hospital Care Secured by a Sample of Teamster Families in New York City," (School of Public Health, Columbia Univ., New York, 1962).

[31] C. Havighurst, Testimony in Hearings before the Senate Subcommittee on Monopoly and Antitrust, U.S. Congress (1974).

[32] M. Bennett, "Health Insurance, Medical Need and Hospital Consumption," Inquiry XII (, 1975).

[33] See Ref. 19.

[34] M. Feldstein, "Hospital Cost Inflation," Amer. Econ. Rev. 61, 5 (Dec 1971) 853; see also K. Davis, "An Empirical Investigation of Alternative Models of the Hospital Industry," Annual Meeting of Amer. Econ. Assoc., Toronto (Dec 30, 1972).

[35] F. Satler and M. Bennett, "A Statistical Profile of Short Term Hospitals in United States in 1973" (Interstudy, Minneapolis, 1975).

[36] B. Ensminger, "The $8 Billion Hospital Bed Overrun," (Public Citizen's Health Research Group, Wash., D.C. 1975).

[37] See Refs. 19 and 39.

[38] C. Snow, "Do the Poor Receive Poor Quality Medical Care," 102nd Annual Meeting of Amer. Pub. Health Assoc., New Orleans, (Oct 24, 1972).

[39] A. Donabedian, "An Evaluation of Prepaid Group Practice," Inquiry VI, 3 (Sept 1969) 3.

[40] M. Roemer and W. Shonick, "HMO Performance," Milbank Mem. Fund Qtly. (Summer 1973) 271.

[41] M. Corbin and A. Krute, "Some Aspects of Medicare Experience with Group Practice Prepayment Plans," Soc. Sec. Bull. (Mar 1973) 3.

[42] Report to the Congress by the Comptroller General, "Study of Health Facilities Construction Costs," (U.S. Govt. Printing Office, Wash., D.C., 1972).

[43] E. Brian, "Government Control of Hospital Utilization (Cal. Dept. of Health Services, Sacramento 1971).

[44] E. McCarthy and G. Widmer, "Effects of Screening by Consultants on Recommended Surgical Procedures," New Eng. J. Med. 291, 25 (Dec 19, 1974) 1331.

[45] S. Bellin et al, "Impact of Ambulatory Health Care Services on the Demand for Hospital Beds," New Eng. J. Med 280, 15 (April 10, 1969) 808.

[46] P. Gertman and B. Bucher, "Inappropriate Bed Days and the Relationship to Length of Stay Parameters," 99th Meeting of the Amer. Pub. Health Assoc., Minneapolis (Oct 11, 1971).

[47] See Ref. 22.

[48] See Ref. 42.

[49] See ref. 8.

[50] See Ref. 32.

[51] D. Spodick, "Numerators without Denominators," J. Amer. Med. Assoc. 232, 1 (April 7, 1975) 35.

[52] T. Kelly and G. Schieber, "Factors Affecting Medical Services Utilization," (Urban Institute, Wash., D.C., Dec. 1972).

[53] See Refs. 39 and 40.

[54] D. Harris, "An Elaboration of the Relationship between General Hospital Bed Supply and General Hospital Utilization," J. Health & Soc. Behav. (1975 163; see also Ref. 59.

[55] R. Stevens, "Trends in Medical Specialization," Inquiry VIII, 1 (Mar. 1971) 9.

[56] J. Chamberlain, "Selected Data on Group Practice Prepayment Plan Services," Group Health and Welfare News, Special Supplement (June 1967).

[57] "Distribution of Physicians and Hospitals," (Amer. Med. Assoc. Chicago, 1970); however, see also: J. Sparks, "Physician Maldistribution?" Private Practice (Sept. 1972).

[58] "Availability and Use of Health Services," Agricultural Economic Report No. 139 (U.S. Dept. Agriculture, Wash., D.C., July 1968).

[59] V. Fuchs and M. Kramer, "Determinants of Expenditures for Physicians Services," (National Center for Health Services Research, HEW, Rockville, Md., Dec 1972).

[60] J. Kasper et al, "The Financial Impact of Catastrophic Illness as Measured in the CHAS–NORC National Survey," (Center for Health Admin. Studies, Univ. of Chicago, Feb 4, 1975).

[61] R. Brook, "Quality of Care Assessment, Policy Relevant Issues," Policy Sciences 5, 3 (Sept 1974) 317.

[62] R. Noll, "Reforming Regulation," (Brook-

ings Institution, Wash., D.C., 1971); see also W. Jordan, "Producer Protection, Prior Market Structure, and the Effects of Government Regulation," J. Law and Econ. 15 (1972) 151.

[63] "Monthly Statistical Report: Summary of Selected Price, Cost, and Utilization Data for the Health Care Market in the United States," Soc. Sec. Admin. Office of Res. and Stat. (Dec 1972).

[64] See Ref. 20.

[65] See Ref. 35.

[66] See Ref. 61.

[67] See Refs. 22 and 23.

[68] M. Feldstein, "A New Approach to National Health Insurance," Public Interest (Spring 1971); for an earlier version, see also M. Pauly, "National Health Insurance: An Analysis" (Amer. Ent. Inst., Wash., D.C., 1971).

[69] C. Phelps and J. Newhouse, "Coinsurance and the Demand for Medical Services," (Rand, Report R-964-1-OEO, Santa Monica, Cal., Oct. 1974).

[70] See Ref. 69.

[71] A. Scitovsky and N. Snyder, "Effect of Coinsurance on the Use of Physicians Services," Soc. Sec. Bull. (June 1972) 3.

[72] R. Beck, "An Analysis of the Demand for Physician Services in Saskatchewan," (Ph. D. Thesis, Univ. of Alberta, Edmonton, Spring 1971).

[73] See Ref. 4.

[74] "Sourcebook of Health Insurance, 1973–74," (Health Insurance Institute, New York, 1974), see also "A Current Profile of Group Medical Expense Insurance in Force in the U.S.," (Health Ins. Assoc. of Amer., New York, Feb. 1972).

[75] See Ref. 10.

[76] J. Newhouse et al, "Policy Options and the Impact of National Health Insurance," New Eng. J. Med. 290, 24 (June 13, 1974) 1345.

[77] See Ref. 5.

[78] See Ref. 85.

[79] See Ref. 68.

[80] M. Mueller, "Private Health Insurance in 1970," Soc. Sec. Bull. (Feb 1972) 3; see also Ref. 74.

[81] R. Eiler (dec.), Leonard Davis Inst. Health Econ., Univ. of Pennsylvania, personal communication.

[82] R. Evans, "Health Care Costs and Expenditures in Canada," (Proceedings of the International Conference on Health Costs and Expenditures, Fogarty International Center, Natl. Inst. Health, Wash. D.C., 1975 to be published).

[83] Saskatchewan instituted modest copayments in their previously full coverage plan in 1969, which were discontinued after a couple of years. California instituted copayments in Medicaid in 1973, which have been discontinued presently.

[84] P. Ellwood et al, "The Health Maintenance Strategy," Medical Care IX, 3 (May 1971) 291.

[85] W. McClure, Testimony in Hearings on National Health Insurance before the House Committee on Ways and Means, 93rd U.S. Congress (May 10, 1974).

[86] See Refs. 37, 38, 39, 40 and 41.

[87] J. Iglehart, "HMO Act Changes Advanced to Bolster Troubled Program," Natl. Jour. Reports (Aug. 16, 1975) 1161.

[88] For a more sceptical view, see U. Reinhardt, Milbank Mem. Fund Qtly. (Spring 1973).

[89] See Refs. 37 and 38.

[90] "A Review of the Regulation of Prepaid Health Plans by the State Department of Health," (Legislative Analyst Report, State Capitol, Sacramento, Cal., Nov. 15, 1973).

[91] E. Vayda, "A Comparison of Surgical Rates in Canada and in England and Wales," New Eng. J. Med. 289, 23 (Dec. 6, 1973) 1224; see also J. Bunker and J. Wennberg, ibid, p. 1249 and Ref. 51.

[92] See Refs 18 and 61.

[93] See Refs 84 and 85.

[94] See Ref. 87.

[95] R. Noll, "Public Utility Regulation of Hospitals" (mimeograph, Dept. of Econ, Cal. Inst. of Technology, Oct. 3, 1973); see also C. Havighurst, "Certificate of Need Laws and Franchising Proposals" (mimeograph, School of Law, Duke University, Oct 31, 1972); and see Ref. 62.

[96] G. Silver, "Fair Shares, the U.S.A. is Ready for a National Health Service," Pharos (July 1973) 95.

[97] J. Simanis, "International Health Expenditures," Soc. Sec. Bull. (Dec 1970) 18.

[98] See Ref. 16.

[99] See Ref. 62.

[100] W. Flash, "Political Implications of National Health Insurance Proposals," (Indiana Public Health Foundation, Fall 1970, p. 13).

[101] See Refs. 82 and 83.

[102] See Ref. 20.

[103] F. Sattler, "Hospital Prospective Rate setting," (Interstudy, Minneapolis, Mar. 1975).

[104] See Refs. 22 and 23.

[105] A. Somers, "Health Care in Transition," (————).

[106] R. Schulz and J. Rose, "Can Hospitals Be Expected to Contain Costs, Inquiry X (June 1973) 3.

[107] C. Lewis and H. Kairnes, "Controlling Costs of Medical Care by Expanding Insurance Coverage," New Eng. J. Med. 282, 5 (June 18, 1970) 1405.

[108] Hospital Guide Issue, J. Amer. Hosp. Assoc., (Aug. 1974).

[109] See Refs. 62 and 95.

[110] See Ref. 88.

[111] G. Clarke, "Health Programs in the States," (Eagleton Inst. of Politics, Rutgers Univ, Mar 1975).

[112] M. Doody, "Status of Multi-Hospital Systems," Hospitals JAMA 48 (June 1, 1974) 61; see also F. Brown, "Current Trends in Cooperative Ventures," ibid.

[113] D. Greenberg, "Preparing for National Health Insurance and Other Matters," New Eng. J. Med. 291, 22 (Nov 28, 1974) 1205.

[114] See Ref. 1.

THE MIGRANTS TO THE WEST

Mr. MONDALE. Mr. President, October 9, 1975, is a special day for Americans of Norwegian descent. It is the 150th anniversary of the arrival in New York Harbor of a tiny ship that brought the first organized company of Norwegian immigrants to the United States. In tribute to many lasting contributions of Norwegian-Americans to our way of life, the Senate last June unanimously approved my Norwegian-American Day resolution and the President responded by proclaiming this day a day of national celebration. In Minneapolis and many other cities throughout the country ceremonies are being held in honor of the sesquicentennial.

One especially fitting tribute to moral courage displayed by the early immigrants appeared in this morning's New York Times. It is an excerpt from a speech by the distinguished Norwegian-American Eric Sevareid.

Mr. President, that my colleagues in the Senate might share this thoughtful article, I ask unnaimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MIGRANTS TO THE WEST

(By Eric Sevareid)

(Following are excerpts from an address delivered in Carnegie Hall on Tuesday at an observance of the 150th anniversary of organized Norwegian immigration to this country, at which King Olav V of Norway was guest of honor. The writer who is a CBS News commenator, titled his speech "Letter to a Grandfather I Never Knew.")

I cannot say just why you did it, you and all the others. The hunger for soil, yes, but there must have been deeper hungers—the eternal craving of man for rebirth, for the second chance.

It may be you thought you were bringing Europe with you, but it did not turn out that way. You did not bring, you built, and what you built was the only new thing in all time in the relationship of man to man. Europe became only your history and for your 14 children and 42 grandchildren only their prehistory.

At some point a cog was slipped in the mechanism of your spirit, and the imperatives of the future commanded you.

America commanded you as you watched your children grow—and three of them die. They were the change, the second chance. They were Erik Erikson Sevareid reborn. All of you, pilgrims and seekers and sufferers, were caught by what has been called the "terrible faith," the secret of the westering movement, the inner knowledge that it was for the children.

There are now those who say you were wrong, that the new reality became a mockery of the old dream.

Let me speak across this span of a hundred years and more and say: Rest easily in your grave beneath the Minnesota prairie. You were not wrong.

You believed that hard work was what a man and woman did, in order to matter. Some speak of this now as the "work ethic," as if it were some curious, irrelevant quirk or cult.

You were at ease with the word "duty." You knew there could be no rights and privileges without responsibility. You found it natural to teach probity to your children, and self-denial, so that others, too, could have elbow room in which to live. You blamed yourself for misfortune, not others, not the Government, not society itself.

You knew what was known by ancient philosophers you never read—that civilized life cannot hold together without these values. Now, some speak of them as the "Puritan ethic," as a curious outmoded illusion. But you were not wrong.

I do not imagine that you and those like you saw yourselves as personae in a saga. But you came to be so regarded. As helpless victims of fate, to some; as heroes, giants, larger than life to others.

From the story of that migration Norwegians have fashioned great books, and Swedes have fashioned great motion pictures.

But now there are some who believe these dramas are telling us that it was in vain. That you and the others came seeking freedom and equality and found neither.

You knew such things are not found but created. This grandson believes that is what you did. I have seen much of the world. Were I now asked to name some region on earth where men and women live in a surer climate of freedom and equality than that northwest region where you settled—were I so asked I could not answer. I know of none. What you built still stands upon that prairie.

We have, somehow, to find simplicities again. There is a yearning to find our way back to something of what you were and did and left. We ask the third chance.

And so you live on. You who were the first ones—the Pedersons and Olsons and Jensons and Eriksons and Hougens and Olafsons, and the hundred other ancient family names, born out of the high rock and the waters, the wood, the drifting fog and the bright, brief flowers of the summer sun.

You were among those who made a vast, new thing upon the earth.

SOLAR ENERGY DEVELOPMENT BY SMALL BUSINESS

Mr. PACKWOOD. Mr. President, I rise today to ask unanimous consent that a copy of my testimony submitted to the Senate Select Committee on Small Business concerning solar energy be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PACKWOOD. The Nation's true future in energy is often clouded by differing views on the contribution from each of our energy resources: Petroleum, fossil, geothermal, hydroelectric, wind, wave and tidal, and solar. Let me say that of these energy resources that are available for us to tap, the most enduring, clean and widespread one is solar energy. At the current time this Nation is only using a fraction of the available sunlight which shines upon the Earth. I have and will continue to support increased funding for the Energy Research and Development Administration to be devoted to solar energy.

Most recently I have written to ERDA in support of a research proposal submitted by the University of Oregon Solar Center to study the various energy collecting abilities of certain solar collectors and reflectors.

Mr. President, I hope the Senate will favorably consider the $169,318,000 we recently authorized to be spent for solar energy research and development during the 1976 fiscal year and 3-month transition quarter next fall.

There is hardly a better investment we can make for the long-run energy supplies of this Nation if we act affirmatively on this specific budget item. As the Energy Research and Development Administration has recently estimated, the country's total energy demands could be met by 7 percent if we properly develop solar technologies now. Together with my support for small business emphasis in this area and adequate appropriations during the formative years in solar energy cultivation, I am hopeful we can move ahead to a more stable, clean, environmental balance in supplying energy to this country and the world.

EXHIBIT 1

OPENING STATEMENT BY SENATOR BOB PACKWOOD

Mr. Chairman, without a doubt, solar energy is our cleanest, most constant energy source for the future. Whether we are speaking of solar heating and cooling in the Pacific Northwest or the southern latitudes of the country, we have a tremendous energy resource to tap if we take the correct approach now.

The recommendations from this Committee's hearings in May on the problems of small business in developing solar energy have my full endorsement, and I have every intention of seeing that they are carried out.

The history of solar technology's beginning in the last twenty years is replete with innovations by the small businessman and the individual inventors who saw the future for solar energy. It is a sad chapter in this story to find bigger and more concentrated business interests taking the lead away from the smaller interests in the Country.

It is this very type of individual initiative and discovery which is leading the Pacific Northwest's efforts to establish a sound baseline of information on the potential for solar energy use in the Northwest.

Although most people would discount the potential for solar energy in the Pacific Northwest, I believe this is quite inaccurate. On the weatherbeaten Oregon coast, an enterprising home owner, Henry Mathew, has constructed, at relatively little expense, a solar collection surface using hardware store materials, and a large sub-surface holding water tank, which has reduced his electrical energy use by over 25 percent annually. Presently, a $189,000 two-year grant proposal is awaiting acceptance by the Energy Research and Development Administration for continued monitoring and testing of solar collectors and reflectors in the Northwest by the University of Oregon Solar Center. This proposal is a fine example of a small group of scientists that are willing to take on the bulk of researching solar energy. This Committee's responsibility is to see that the funds and incentive remain for them and others.

This year the State of Oregon created the Oregon Department of Energy to manage the State's energy development and use. I have written this Department today to advise them of our Committee's efforts for solar energy development and the importance of emphasizing the continuing work of the innovator and small businessman.

Mr. Chairman, thank you.

THE AMERICAN INTELLIGENCE COMMUNITY AND THE FUTURE OF U.S. FOREIGN POLICY

Mr. CLARK. Mr. President, the issues being examined by the Select Committee on Intelligence are vital ones for the future of American democracy. The debate on these issues has just begun, and only tentative conclusions can be reached at this time.

Last week, the distinguished Senator from Minnesota (Mr. MONDALE), who serves on the Select Committee, offered what I believe to be a most interesting beginning to this vital dialog. His speech, delivered at Denison University in Granville, Ohio, outlined what he believes to be many of the past problems in our intelligence activities, and suggested a variety of possible reforms. I believe this speech deserves careful attention.

Each of us must arrive at our own decision on the extent of past abuses in the intelligence community and the need for future reform. Senator MONDALE's speech should aid in this process through its thoughtful examination of many of the pressing issues surrounding our intelligence activities.

I also commend to my colleagues an editorial which appeared in today's Minneapolis Tribune, commenting on the Senator's speech and on the need for responsible discussion of future policy alternatives in the area of American intelligence operations.

Mr. President, I ask unanimous consent that the speech of the Senator from Minnesota (Mr. MONDALE), and the Minneapolis Tribune editorial be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

THE AMERICAN INTELLIGENCE COMMUNITY AND THE FUTURE OF U.S. FOREIGN POLICY

(By Senator Walter F. Mondale)

I would like to discuss with you this afternoon a crucial aspect of foreign policy which for too long has been sealed-off from the normal give-and-take of a democratic society—the overseas foreign intelligence operations and activities of the United States.

I want to say at the outset that I am a firm believer in the need for a Central Intelligence Agency. In today's world it clearly is necessary for us to collect intelligence abroad, to analyze it carefully, and to make it available to our senior policy makers. I am prepared to concede also that there may be a role for covert action from time to time—when our most vital interests are jeopardized and no other means will do.

However, having said this, it is clear that some very serious problems have arisen in the functioning of the United States intelligence community. The Senate Select Committee on Intelligence, of which I am a member, has been examining both the strengths and weaknesses of America's intelligence apparatus. If I dwell today on the problems, I do so to provide a basis for discussing some of the reforms that I believe are needed. It is not simply to suggest that enormously valuable work has not been done by our intelligence agencies through the selfless dedication of thousands of Americans.

First the problems. Over the last thirty years, American clandestine intelligence activities have often amounted to a secret foreign policy—usually supporting our public policy, but sometimes running contrary to what the American people were told its government was trying to do in the world. The CIA was the basic instrument of this secret foreign policy, and in many places in the world its operatives became a secret American diplomatic service. Its operatives had intimate and independent contact with important foreign leaders and a stature often rivaling, and sometimes exceeding, that of our Ambassadors.

Periodically our foreign intelligence operations went beyond covert diplomacy. They became an instrument of secret warfare—in Guatemala, Indonesia, Indochina, Cuba, the Congo and Laos. Straying from its intended purpose of supplying our leaders with the best possible intelligence on which to make foreign policy decisions, the CIA became an instrument and an actor in that process.

Your previous speaker, Secretary Rusk, has been quoted as saying that "the process of government is a struggle for power among those holding public office." The CIA, through its operational activities became a participant in that struggle, occasionally to the detriment of its essential function of supplying sound intelligence.

For example, intelligence on the prospects for such operations as the Bay of Pigs and so-called "pacification" in Vietnam was tragically wrong—in part because of CIA deep involvement in these operations.

The resort to clandestine instruments of manipulation, coercion, and interference in the affairs of other countries may have been essential to our security at one time. But over the years, it became increasingly marginal. Today we find it has damaged our credibility, tarnished our prestige and undermined our power in the world.

The United States is now blamed for nearly everything—from the murder of King Faisal to supposedly bankrolling rich European Socialist parties in their efforts to help the Portuguese. We bear a serious burden for the past activities of the CIA. Democratic and progressive leaders in the world often shy away from supporting the United States for fear of being smeared with charges of association with the CIA.

Equally important, CIA support for the most odious dictatorships and "destabilizing" efforts aimed at democratic governments have undermined popular American support for our involvement in foreign affairs. If that is what is meant by shouldering world responsibilities, many Americans would rather not.

There have also been problems in effectively managing our multi-billion-dollar intelligence bureaucracy so as to avoid waste and ensure objective intelligence. Decisions on what information to collect are often the result of the bureaucratic priorities of the many collecting agencies—and often not made on the basis of national requirements. The great bulk of our intelligence budget is spent on collection, a much smaller amount is spent on information processing, and a relatively infinitesimal, and inadequate, amount is spent on the crucial task of analyzing the information so we know what it means. Finally, there are serious problems in ensuring that the intelligence agencies have sufficient independence and integrity to tell the whole truth no matter how unpleasant this may be for our political leaders.

But the most important problem is that the concept and the techniques of our intelligence activities abroad have been turned against the American people at home. As the late Stewart Alsop observed in connection with Watergate: "to transfer such secret service techniques on an obviously planned and organized basis to the internal American political process is a genuinely terrifying innovation."

Yet we now know that there was even more than Watergate—there was also Operation Chaos, COINTELPRO, mail openings, illegal break ins, wiretaps, buggings, anonymous slander, phoney front organizations, agent provocateurs, strong-arm stuff and maybe worse.

The use of these covert actions and counterintelligence techniques on American citizens had their roots in the real concerns felt by the American people in the Second World War and in the depths of the ensuing Cold War. But it was in the late 1960's when this activity really blossomed.

Two President, one a Democrat and one a Republican, treated as disloyal those Americans who protested the foreign policy and the war the government was then pursuing. The apparatus of government intelligence was focused inward in an effort to shift blame away from the failures of our foreign policy and onto some of its citizens.

And the practice spread. Black activists and civil rights groups came under surveillance; labor leaders and Congressmen were monitored and files were kept on them. Even Richard Nixon had his mail opened. In fact nobody was safe.

Repeatedly, the White House badgered the intelligence agencies of the government to find connections between foreign agents and war protesters and other political activists. Repeatedly, they failed to find significant evidence that opposition to the war, the drive for civil rights or that unrest in the cities was due to foreign manipulation. Nonetheless, the White House continued to press for intelligence to fit its fantasies.

The result, however, was an attempt to chill political dissent in this country and to stifle the constitutional right to the free expression of views essential for our democracy to survive.

This use of intelligence techniques to thwart the democratic process has profound implications for our future foreign policy. First, it affects the realism and wisdom of our foreign policy. If we permit by resort to the tools of counterintelligence—to treat American citizens exercising their rights as though they were foreign agents—then we can tragically delay the process of facing up to world realities.

Second, the degree of public support for foreign policy is seriously affected. The American people cannot be expected to show much enthusiasm for full participation in world affairs if those who differ over policy are to be treated as traitors. It gives foreign policy a bad name. Americans are going to be reluctant to support an activist foreign policy unless they have confidence that some of the secret instruments of foreign policy are under effective control and will not be turned against them.

* * * * *

In dealing with these problems, the basic task of the Select Committee is to restore the confidence of the American people in the United States intelligence community. The intelligence community cannot do this for itself.

No amount of internal reform and Executive orders can substitute for a new Congressional charter for these agencies, backed up by vigorous Congressional oversight. We must ensure that our intelligence agencies are under certain control, accountable, and acting within the law. They must not be allowed, in the name of foreign policy or national security, to abridge the Constitution and the Bill of Rights.

To this end, the Select Committee on Intelligence Activities has undertaken the first in-depth examination of the CIA since its founding almost thirty years ago. We have been meeting for almost nine months. Five months remain before our mandate expires on the first of March next year. Already the files and records of the Committee are larger than any single investigation previously conducted by the Senate. The number of pages of testimony on the subject of assassination alone is approaching that of the Watergate proceedings. We have a Committee staff of over one hundred.

The main issue that is emerging is that of accountability.

There is a disturbing pattern of secret agencies unaccountable to the President. There is an even more frightening pattern of Presidents using these agencies to evade accountability to the law, to the Congress, to the Constitution and the American people.

This lack of accountability threatens the very basis of our democratic system. During the House Judiciary Committee proceedings considering the possible impeachment of President Nixon, Representative James Mann put the problem starkly. "Americans revere their President, and rightly they should. We would strive to strengthen and protect the Presidency. But if there be no accountability, another President will feel free to do as he chooses. The next time there may be no watchman in the night."

Reestablishing this bond of Presidential accountability to the people must be the Select Committee's ultimate task.

And if we can achieve this, I believe we will also be making major progress involving more technical questions such as whether our intelligence effort has the right priorities and whether the intelligence produced is objective, effective, and worth the money spent on it.

The question of accountability is central. We make an enormous concession in our democratic society to let government agencies operate in secret. Now, I accept that secrecy is sometimes necessary, particularly in the field of intelligence. But we cannot tolerate both secrecy and lack of accountability and expect to survive as a democratic nation.

Pinning down responsibility for many of the actions the Committee has uncovered has been like nailing jello to a wall. Subordinates say they were told to do it; higher officials can't remember it. Over and over we find that something happened but nobody did it.

Who is accountable in such cases? Who is out of control? The agency? The White House? The President?

We've been through all the available records, and they are a mess. Of course, one wouldn't assume that normal business files would be kept on this sort of activity.

But more important, the record system is designed to leave a mess. The basic principle of intelligence operations is deniability—to insulate the President from responsibility—to make it appear that this government isn't doing what it is doing—to make sure the buck doesn't stop with the responsible officials in our government. Deniability is the enemy of accountability.

As a result, it is possible to conclude that the agencies are often off on their own like a "rogue elephant." But there is a suspicion possibly unjustified that the rope was slipped off the elephant by the Chief of the Park Service himself.

The truth is that the system is designed so that it is too often impossible to ascertain the truth. The truth is that the system is unacceptable.

We have found examples in which Presidents have used our intelligence agencies to secretly exceed their authority under the law and the Constitution.

We have found cases in which the agencies have, apparently on their own, exceeded or violated Presidential orders. The case of the CIA's failure to destroy its biological weapons—the shellfish toxin—is a small, but illustrative, example.

We have found that the agencies have sought Presidential authorization of illegal actions in which they were already engaged—the Huston Plan is a case in point.

It seems that the possibilities are endless. And as far as I can tell, they all happened.

What can be done about the problem of accountability? What can be done to meet the problems I have outlined? My answers are still tentative and are certainly subject to revision as we go further in our investigation. But I wanted to spell out some ideas in order to begin the dialogue on the kind of fundamental changes that I believe are required.

I would suggest consideration of the following steps:

1. First, I would suggest taking the clandestine services, the spys, the covert operators, the whole "dirty tricks" department—out of the CIA. This is the only way to get effective control over these activities.

There have been many suggestions to take such covert action—the overthrowing of foreign governments, all that sort of thing—out of the CIA, but to leave the covert collection, or espionage job, in the Agency. We have been taking a close look at that, and it's frankly impractical. You really can't draw a line between espionage and covert action.

People who will give you information and betray their country in that manner will also do odd jobs for you later on, if you want some covert activity. Moreover, the whole apparatus of secrecy—safe houses, secret writing, clandestine contacts—is the same in both cases.

We would be fooling ourselves if we tried to exert control over covert action and ignored the fact that the same kinds of things are done under different labels, such as intelligence, or even more, counterintelligence.

2. This whole covert side of our intelligence operations should be made accountable to a politically responsible official of the Executive branch, such as the Secretary of State. We should abolish these phantom groups—the most recent of which is the 40 Committee—that are supposed to exercise control but which, in reality, serve to insulate the most senior officials and the President from accountability. A new Cabinet-level body, chaired by the Secretary of State, should sign off on *all* our clandestine activities abroad, including intelligence and counterintelligence, which at present receive no systematic high-level review. Accountability would replace deniability—which was a naive and unworkable concept anyway—and seasoned and sober judgments would hopefully replace reckless and impractical ones.

3. In the field, we have to make the American Ambassador fully responsible for all the

intelligence operations that are going on in his country. Otherwise, we can exert all the control we like in Washington, but we will have no assurance that in fact control is being monitored in the field.

Some might argue that there are certain Ambassadors who can't be trusted with this kind of information. Well, my view is that maybe this will lead to a better class of Ambassadors and end the practice of using our overseas posts for political payoffs.

4. I believe we must make the budget for these clandestine activities come out of the State Department and the Defense Department budgets and be subject to strict impersonal authorization. That way, we can help assure that secret intelligence operations are truly essential to our defense or our diplomacy.

5. I believe we should consider reducing our overseas complement of the clandestine service substantially over the next several years. I believe these slots should be transferred to the Foreign Service so it can do a better job of political and economic reporting on an open basis. All agencies agree that the primary and most valuable source of intelligence, apart from our technical systems, comes from the Foreign Service. Yet they are badly hamstrung by lack of personnel training and operating funds. I believe a special account for these purposes must be added to the State Department budget.

6. This doesn't mean that we should abolish the Director of Central Intelligence. Quite the contrary. His role should be strengthened. He should continue his responsibilities as the central point of analysis for all intelligence information and have greater authority to manage the technical collection programs. In addition, he should be given basic managerial responsibilities over the budget of the intelligence community.

Only in that way can our requirements for intelligence really be linked-up with the way we spend our money. As it stands now, there is a tendency for each agency to get its share of the pie and go off on its own, doing what it knows how to do best, regardless of what the requirements are of the government as a whole. This, in fact, was the original role for establishing a Director of Central Intelligence to serve as a central point for analyzing information and for coordination and management.

7. I believe the Director of Central Intelligence also should be given an explicit charge to keep the Congress informed of intelligence developments as they unfold. For the Congress to play its rightful role in the shaping of national policy, it must have as good information as the Executive.

8. To reestablish the integrity of our national intelligence estimates, I believe we must restore some version of the Board of National Estimates. This board was abolished by Richard Nixon when he didn't like the news that he was getting from the intelligence community. It was a board of eminent and highly qualified intelligence analysts, diplomats and statesmen, who tried to come to some wise and sober judgments on the significance of our intelligence information.

Nothing is more important than having objective intelligence. But objective intelligence requires objective people, unfettered by fears for their careers and not susceptible to White House or parochial agency pressure. We need to reestablish a board that can perform that function.

9. The intelligence agencies should have their rules clearly spelled out in law. We need to pass stiff laws that will attach tough criminal penalties to violations of their charters or of other laws of the United States. We have to make it as clear as we possibly can what activities are permitted by these agencies. We must make it equally clear that all other activities are forbidden unless explicitly authorized by Congress. We can't put ourselves in the position of trying to imagine and rule out all possible activities that could conflict with our principles and our Constitution. If additional authority is needed, they can come to the Congress for it.

10. Finally, we must establish an effective Congressional oversight mechanism. I believe it is fair to say that if we had done a better job of oversight, we might have come to grips with these problems a great deal earlier. This oversight body, whether it be a joint Committee or separate Committees of the two Houses of Congress, should be composed of representatives from the other Committees responsible for these matters—Armed Services, Foreign Relations, Appropriations—as well as several members drawn at large from the two Houses. Membership of the Committee should rotate so that the Committee does not become captive to the intelligence community. A critical aspect of this oversight is that this Congressional Committee be allowed access to all relevant information. The unwillingness to trust a duly-constituted Congressional body with information relating to the intelligence of the United States betrays the same lack of trust of the democratic process that led to the abuse of the agencies by turning them against American citizens.

I believe there is no more fateful set of decisions to be made by the Congress in the field of foreign affairs than those that will be addressed by the Select Committee and ultimately by the Congress. No more important step towards reestablishing America's credibility and America's respect, and therefore America's power, can under effective control and accountability.

Moreover, it is essential for the continuation of democratic support for our involvement in foreign affairs. Only through the most careful safeguarding of our liberties will the American people again feel that their government deserves the trust so essential for the conduct of an effective foreign policy.

I am convinced that we can rebuild this trust only by ensuring that no one individual can abuse it. As James Reston has noted, "we have a system that we shrewdly designed to be strong enough for leadership, but in which power was diffuse enough to assure liberty." Through the reforms I have suggested, and others that may also be needed, I hope we could help assure both continued leadership and continued liberty.

But beyond these measures of institutional reform lie the ultimate questions of what kind of President, what kind of foreign policy we are to have. Regardless of institutional arrangements, it is very hard for the members of the intelligency community—or anyone else in the federal bureaucracy—to say "no" to the President. And it is almost impossible if the President invokes the imperatives of foreign policy and national security.

So it comes back to our basic approach to foreign policy. Will it be dominated by fear and suspicion? Will it be characterized by outsized ambition and an American solution to every problem? Will it be warped by the illusion that while we jealously control our own history the history of others can be manipulated by a few dollars, a few guns or a few lies?

Or will we approach the world with a more open mind and a more generous spirit? Will our leaders learn to live with democratic dissent at home and to acept diversity in our dealings abroad? Will we once again be the foremost example of liberty in the world?

I hope so. I believe it would restore a new measure of proportion and restraint to our future foreign policy.

Without this restraint, the entire structure and uniqueness of our democracy may be endangered.

With it, we will enter our third century of democracy better equipped to meet the challenges to domestic liberty that international tensions inevitably produce.

What is at stake is nothing less that our continued success of our democracy. As John Gardner has observed:

"When our nation was founded, there was a holy Roman Emperor, Venice was a Republic, France was ruled by a King, China and Japan by an Emperor, Russia by a Czar and Great Britain had only the barest beginnings of a democracy. All of these proud regimes and scores of others have long since passed into history, and among the world's powers, the only government that stands essentially unchanged is the Federal Union put together in the 1780's by 13 states on the east coast of North America."

Preserving and enhancing this Union must be the enduring goal of our Foreign Policy. We must be sure the instruments of foreign policy do not betray it. Re-establishing the accountability of our intelligence community and our President to the people is essential to the continued well-being of the American republic.

[From the Minneapolis Tribune, Oct. 9, 1975]

COMMONSENSE PROPOSALS ON INTELLIGENCE

Although the report of the Senate Select Committee on Intelligence is several weeks from completion, the pattern of its critical conclusions is becoming clear. Together with a House committee's similar investigation—which has not progressed as far—and the Rockefeller Commission report earlier this year, the Senate committee's findings show a history of abuses that clearly need correcting. It is not enough to say that intelligence agencies are probably no longer negotiating with the Mafia for the execution of foreign leaders on an enemies list or opening congressmen's mail. That such actions could have been condoned at high levels without tripping a common-sense fail-safe mechanism in the government shows that fundamental changes are needed.

But what kind? As an introduction to what will surely be a sharp debate on the subject, Sen. Walter Mondale in a speech last week made a number of suggestions that point the way. Mondale, a member of the Senate committee, did not belittle the need for intelligence. He even conceded that "there may be a role for covert action" (the "dirty tricks" side of intelligence work) "when our most vital interests are jeopardized and no other means will do." Having established his credentials as one who recognizes intelligence to be a vital component of national security, Mondale went on to outline problems and his suggestions for dealing with them.

The problems are familiar: a record of intelligence agencies involved in such travesties of foreign policy as secret wars and in such domestic outrages as illegal break-ins. Mondale is on firm ground when he describes the central issue as accountability—". . . secret agencies unaccountable to the president . . . (and) presidents using these agencies to evade accountability to the law, to the Congress, to the Constitution and the American people."

Some of the Minnesota Senator's proposals for better accountability are familiar. For instance, he suggests that Congress should define the rules for the agencies more clearly in law and that more aggressive and diversified oversight committees assure compliance. He calls for centering responsibility for all clandestine activities abroad in a politically responsible official, perhaps the Secretary of State, outside the intelligence agencies themselves. At the same time, he says, the director of central intelligence should be given the greater authority intended, but now denied, over defense and other intelligence agencies besides the CIA.

Among less familiar proposals, one strikes us as especially noteworthy because it so well illustrates the need for common sense. Mon-

dale suggests a substantial reduction in the number of U.S. intelligence agents overseas—not to reduce U.S. intelligence capabilities, but to transfer more to the State Department Foreign Service. Most intelligence work is the gathering, transmittal, analysis and collation of information by skilled observers. Most of the work of embassy staffs involves just that. Given increased training and operating funds, Mondale says, there's no reason why the foreign service can't perform more of the function that is already one of its chief responsibilities. That may not be a headline-catching reform, but it's an example of the kind that we think should be made.

CAPITAL FORMATION

Mr. McCLURE. Mr. President, it has come to the attention of the Budget Committee Task Force on Capital Formation, of which I am a member, that serious shortages of capital due to a lack of investment could result in the immediate future. Charles McQuillen, my staff economic analyst, has written an excellent article concerning a short run analysis of the Federal budget and its effects on capital formation. I commend this article to my distinguished colleagues herewith:

CAPITAL FORMATION

Capital accumulation has been the keystone of American economic success. The flexible and productive investment of our national savings has permitted a people who inhabit only 7% of the world's land area and constitute but 6% of its population to produce 33% of the world's goods and services. Serious questions have developed in the last year or two concerning our ability to continue to marshall the large amounts of capital which must be invested between now and 1985 if we are to maintain and enhance our material level of well-being. Many forecasters agree that between now and 1985 we must invest some 4.7 trillion dollars. Many factors affect the availability of long term capital and this article will not attempt to deal with them. It is important, however, to recognize that the long run is but a series of short runs and that what we do during the next nine months will either set our feet firmly on a path consistent with such long term goals or cause us to deviate from them now and thereby prejudice their ultimate achievement.

Perhaps the greatest single deterrent to saving and investment is inflation. High and sustained levels of inflation lead to a reluctance on the part of lenders to supply capital at anything near "normal" interest rates. In the short run, interest rates will heavily reflect inflationary expectations. Currently we are faced with a situation in which both short and long term interest rates are high and rising—despite the fact that demands for investment funds are momentarily low. In such a situation the key variables which affect the decisions of lenders and borrowers are the size of the federal deficit and the manner in which that deficit will be financed. Let's turn our attention to the federal deficit for fiscal year 1976 and attempt to determine its size and its probable method of financing. In addition we can make some predictions about two possible economic outcomes of the projected deficit and its effects on the availability of capital through July of 1976.

In April of this year the House and Senate Budget Committees recommended to Congress the First Concurrent Resolution on the Budget. At that time the anticipated deficit for the 1976 fiscal year was set at 68.8 billion dollars. A deficit of this magnitude was designed to increase the level of demand but at the same time avoid any rekindling of the price inflation of 1974 and early 1975. The deficit is now assured and will probably exceed 73 billion dollars. The anticipated results of that deficit, however, remain unresolved. To accurately forecast the inflationary implications of the final deficit requires that a number of judgments be made relating to Federal Reserve policies, private credit demands, international dollar flows and the general character and speed of the ongoing economic recovery. Among these imponderables, however, the key variables relate to Federal Reserve policy and the financing activities of the Treasury.

Predictions of the policies of the Treasury and Federal Reserve are made at the forecaster's peril. However, the activities of these bodies are reasonably predictable within a range. At one end of this range we can forecase a slow, non-inflationary and sustainable recovery (Case I). At the other end of the range we can forecast a rapid, inflationary and non-sustainable recovery (Case II).

Case I—At this end of the range of possible options the Federal Reserve exerts its best efforts to hold in check the rate of money growth. Chairman Arthur Burns has insisted that the Fed will maintain a policy of money stock growth which will allow for a rate of increase in M_1 of 5–7.5% between now and the second quarter of 1976.[1] If we assume that the actual rate of growth of M_1 lies at the middle point of the range then the money stock will increase by 6.25% and reach 304.4 billion dollars by June of 1976. In this situation interest rates will rise slightly and the Fed would purchase some 6.4 billion dollars or 7.5% of the new debt issued by the Treasury.

Case II—At the other end of the range of alternatives we can project a Federal Reserve policy which attempts to hold down interest rates in the short term by expanding the money supply at a rate twice as fast as in Case I. In this situation M_1 would rise by 14% to a figure of 330 billion dollars by June of 1976. If this is to occur, the Fed must purchase 13 billion dollars or 15% of the new Treasury debt. The immediate effects of this policy look very good in the short run. We could expect real output to grow at 7–8% and unemployment to be reduced to 7–7.5% by June. Unfortunately the short run success has some long term consequences. Inflation rates would pick up dramatically by the summer of 1976 moving into the 10–11% range. In addition this rate of money growth and price increase would set the stage for a subsequent recession in 1977–78.

It is much more likely that actual developments will more closely parallel Case I assumptions rather than Case II. The Federal Reserve has made a strong commitment to controlling the growth in the money stock. If we can assume that the Fed does indeed pursue a non-inflationary policy, some conclusions relating to the short run availability of capital for business investment can be drawn.

CROWDING OUT 1976

The phenomenon of crowding out of private borrowers by the Treasury has many definitions—none of which are really adequate in the sense that they are truly descriptive. We could envision crowding out in terms of a credit crunch in which, as in 1969, funds were not available at any price. A repeat of this type of credit crisis is unlikely to occur in 1976. However, if we envision crowding out to be a situation in which small and medium-sized credit worthy firms are unable to finance normal money and capital market needs, then we may well see crowding out by June of 1976.

Given the set of assumptions consistent with the moderate rate of growth of money described in Case I the supply of available savings will approximate 250 billion dollars. Against that supply households, borrowing at their historic rates, would take down approximately 110 billion dollars. The Treasury will borrow an additional 85 billion dollars to finance its cash needs. The residual capital available for business investment will then be no more than 55 billion dollars.

In short the immediate needs of business firms for capital may well go unmet, especially in the homebuilding industry. It will be difficult to determine the actual amount of the shortfall in capital but a fair approximation would be in the area of 6-7 billion dollars. To the extent that business firms anticipate a shortage of capital they may adjust or postpone spending plans. It is this adjustment which is the invisible consequence of large federal deficits financed in private capital markets.

The first six months of 1976 should demonstrate the willingness of business firms to begin the capital formation efforts which are required over the next 10 years. Hopefully, this period will also demonstrate to policy makers at the federal level the fact that deficits, inflation and capital investment cannot proceed together for any length of time. The economic impact of capital investment is clear. It produces valid jobs, true incomes, and real prosperity. Investment which transforms tax consumers into tax producers is the key element which will reduce and finally eliminate deficits. Unfortunately, if we are to generate the levels of investment we require we must commit ourselves to a slow and steady recovery. We must avoid the so-called painless alternative of rapid monetary growth which brings in its wake inflation and recession. A sensible approach to short run problem solving will not, of course, guarantee that our long term economic difficulties can be solved. However, if we do demonstrate an ability to act responsibly today at the federal level we may well act successfully tomorrow at other levels.

[1] M_1, or the money stock, is defined to be the sum of currency in circulation and demand deposits held by the public at commercial banks.

THE "ONLY HOUSING GAME IN TOWN" IS ALREADY IN A SLUMP

Mr. PROXMIRE. Mr. President, as chairman of both the Senate Banking, Housing and Urban Affairs Committee and the Senate Appropriations Subcommittee on HUD, I have long been critical and skeptical of the new section 8 low- and moderate-income housing program at HUD.

The Housing Act of 1968 provided the legislative initiative for HUD to build 600,000 units of assisted housing per year in order to meet our housing goals at a time when the housing and construction industries were at an alltime low. At the same time, it is equally clear that the 1974 Housing and Community Development Act intended for the new section 8 program to work in tandem with the old, tried, and true traditional public housing programs—section 235 and 236.

Since that time, the traditional public housing programs have been virtually disbanded, leaving the fledgling, untested "rookie" section 8 program as the "only game in town." Even George Allen would never play a rookie without knowing that there were some veterans on the bench.

So far the results have been disheartening, to say the least. Former Under Secretary of HUD Mitchell testified to my Appropriations Subcommittee in the

spring that only 27,000 units will be completed in 1976—or 523,000 short of the 600,000 housing assisted construction goal. Yesterday, the Washington Star reported that the only report of new construction under section 8 has come from my own State of Wisconsin where a 216-unit apartment complex for the elderly was begun in Shorewood, Wis., in August. At a time when the economy badly needs a shot in the arm from the housing and construction industry, this is a sad commentally, indeed, on the contribution of federally supported public housing construction to this sagging element of our economy.

Fortunately, the Senate had the forsight to approve language in the HUD appropriation bill (H.R. 8070) that would have earmarked $75 million to assist in financing the development or acquisition of low-income housing projects to be owned by public housing agencies other than under the section 8 program. This figure was subsequently whittled down to $50 million, under severe pressure by the House, in the House-Senate conference, but if the bill becomes law, the $50 million will at least keep the traditional public housing program alive for the time being.

Mr. President, Mr. Lorenzo Middleton, a staff writer for the Washington Star, has written a very informative but distressing article on the progress—or lack of progress—of the Section 8 program to date. I ask unanimous consent that the article be printed in the RECORD so that my colleagues in the Senate will be able to read this report on what I often refer to as the "Department of No-Housing and Urban Development."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RENT SUBSIDY GAVE GREAT PROMISE, HASN'T DELIVERED

(By Lorenzo Middleton)

Back in January, when the federal government's awesome new rent subsidy program became law, it was to have brought new meaning to the concept of public housing assistance.

In theory, the program could reach more Americans than all the previous public housing programs combined—27 million households, or about a third of the country's population.

It was going to help people who would not have come close to qualifying for housing assistance in the past—either because their incomes were too low or to high. In the Washington area, for example, a family of four would be eligible to live in subsidized housing with an income as high as $14,500.

"Never before were so many to be served by so much," quipped an official at the Department of Housing and Urban Development. HUD developed the scheme under the Nixon administration to replace a myriad of old subsidy programs shelved two years ago.

But now, well into its first "action year," the new Section 8 Housing Assistance Payments Program has little more to show for itself than a massive accumulation of paper work, piled up in federal and local housing offices around the country.

Thus far, the program—which was included in the Housing and Community Development Act of 1974—has been bogged down in the same bureaucratic tangles that held up the unsuccessful low-income housing efforts of the past.

Its critics argue that the federal government should not invest so heavily in an unproven program, when some of the previous programs are just beginning to show results.

Some go so far as to predict that Section 8 will produce even fewer homes at a slower rate than the ill-fated programs of the past, pointing to continuing bureaucratic holdups, ongoing economic problems, and the age-old reluctance by most communities to accept low-income housing.

On the surface, the plan is deceptively simple. HUD encourages developers to build new apartments for low-income families by promising to pay a certain portion of the rent for the subsidized tenants. To fill the gap while new housing is being built, the government offers subsidies to low-income people who can find landlords of existing apartments to go along with the program.

If it works, some officials say, the new program could help millions of people who were ignored under the previous schemes, and provide a much needed boost for the nation's apartment industry, especially in the inner cities.

Until now, however, the results have been negligible. Little, if any rehabilitation of old apartments has commenced. Virtually no construction has started. And hardly anyone has been granted a subsidy under the "existing housing" apartments section of the plan.

"It's difficult to say how much has been done so far," a HUD spokesman in Washington said this week. He said information on the progress of Section 8 has been slow to come in from HUD area offices around the country.

He said the only report of new construction under Section 8 comes from Shorewood, Wis., where the state housing agency held a groundbreaking on Aug. 26 for a 216-unit apartment complex for the elderly.

Other HUD officials say that it takes time for such a massive program to start rolling, that it's much too early to start passing judgments. They also note that, while 27 million people might be eligible for the subsidy, the program will be limited by the funding that Congress appropriates for it each year. The first year's program is committed to housing for 300,000 families nationwide.

When HUD announced the Section 8 funds distribution last spring, local officials protested—to no avail—that the $10.8 million allotted to the Washington area, fell far short of their expectations and needs. That sum would only help about 3,000 families, they said, noting that there are 14,000 applicants on local public housing waiting lists, and an untold number not on the lists but living in substandard, overcrowded conditions.

Since allotments were distributed, however, the local jurisdictions have not yet been able to use up the little that they were granted. The biggest problem has been in trying to interest private developers in building new housing, especially new housing for low-income families.

One local HUD official maintained that the responses have been "good," noting that private and public developers have submitted more proposals than can be met with this year's allocation. The official admitted, however that in every jurisdiction but the District, the proposals are falling short of the desired number of family units. Most of the planning is for elderly housing, the official said.

The following reports from local housing authorities also paint a dismal picture of the prospects for family housing under Section 8 in the Washington area:

In Fairfax, the county housing authority had planned to build two projects, which would have housed 160 low-income families. But that proposal was turned down by the Virginia Housing Development Authority after suits were filed against the projects by citizens in Reston and Fairfax City, where they were to be constructed. Instead, the state agency approved two proposals from private developers for all-elderly projects.

In Montgomery County, private developers also are shying away from low-income family proposals. Seven proposals totaling 800 units—more than twice the amount for which Montgomery is eligible—were submitted to HUD for approval this month. But only two of the proposals, both offered by the county housing authority, included provisions for family units, and they propose only 27 units between them. The rest of the proposals were for elderly apartment projects.

"Around the county, there has been a lot of concern about the management aspect," said David Dantzler a county housing official, explaining the lack of interest in low-income family projects. "In effect, the private owner is asked to become a manager for public housing."

In Prince Georges County, only 8 out of 336 proposed units have been earmarked for families, the rest going to the elderly. Officials there argue that besides having a "critical" shortage of elderly housing, Prince Georges already has too much low-income rental housing.

In the District, the housing picture for poor families looks somewhat brighter than in the suburban jurisdictions.

When the deadline passed last week for submitting proposals in the District, HUD had received bids for 550 family units and 750 elderly units. Proposals for family units were submitted by private as well as public developers, including nonprofit and profit-making organizations.

However, one of the private developers, told The Washington Star that he does not intend to go through with his proposal unless he is granted major exceptions to the Section 8 guidelines.

Joe Horning, of Horning Brothers, a District firm that has developed prize-winning public housing projects in the city, submitted a $900,000 proposal for a 45-unit building in a low-income Southeast neighborhood, next to the 100-unit Stoneridge project, which the company built with funds from the now defunct Section 236 program.

The proposal calls for a Section 8 subsidy on each of the new units, despite a HUD "preference" (as it is stated in the regulations) for proposals in which only 20 percent of the tenants would be subsidized.

Horning said that because of the high rent limits—up to $437 a month for a four bedroom apartment—which HUD has agreed to subsidize, only people in high-income brackets could afford to live in the unsubsidized units. It would be "unrealistic" to expect well-to-do people to move into a subsidized building, Horning said, adding that his project would be "unfeasible unless we have 100 percent subsidy."

Another problem is finding money with which to build the project. "Financing is the big unknown" for all private developers interested in Section 8, Horning said. Citing high construction costs and interest rates, Horning said it also would be impossible for him to carry out his proposal unless the government offers some type of financing assistance.

HUD, while currently refusing to bend to the objections, admits that the impass is endangering a major objective of the program, to mix low and very low-income families in moderate-income apartments and neighborhoods.

Apparently section 8 is running into the same brick wall all over the country.

Local officials point out that HUD's lofty "economic integration" aims have met an even colder reception elsewhere in the country. They cite the recent decision of five suburban communities near Chicago to turn down $800,000 in Community Development funds rather than draw up plans for low-incoming housing. (Community Development money does not necessarily have to be

spent for low-income housing projects, but it is not released by HUD unless the local jurisdiction adopts a Housing Assistance Plan for Section 8 funds.)

Doubts are also hovering around the "existing housing" section of the program, which offers subsidies to low-income families who can find landlords willing to rent to them under HUD's guidelines.

With public-housing waiting lists still growing, area residents probably will not see any benefits from this program until the first of the year, by HUD's estimates, because of the maze of red tape that each jurisdiction must go through before the funds are released.

In addition, several local officials have admitted they are hesitant to switch to this program from the old Section 23 rental assistance that it replaces. "There is a lot of feeling, naturally," said a planning specialist at the Council of Governments, "that you should not put all your eggs in one basket with a program that is untested."

More than 300,000 nonhomeowning families in the District and its nearby suburbs are eligible for Section 8 subsidies, according to estimates from the Metropolitan Council of Governments. That's about 40 percent of the area's total tenant population.

To qualify, a family need only have an income that is 80 percent or less than the median income in its locality ($14,500 for a family of four or less in the Washington area). The government sends the landlord a check for just the subsidized part of the rent, and the rest of the rent is paid directly by the tenant to the landlord.

However, some officials wonder whether landlords will respond to Section 8 as quickly as they did to the old program, under which the government leased the apartment from the owner, and then subleased it to the low-income tenant. Under Section 23 the landlord left the maintence and collection worries to the government.

This is good for the tenant, said Bob Miller, of the Montgomery County Opportunities Housing Commission. "It reduces the stigma of public housing because the family does not deal with us, but directly with the landlord."

Miller added however, that "the landlord has got a lot more work in Section 8, and that's definitely not a selling point."

Another drawback, Miller said, is that maximum rents that HUD has agreed to subsidize for existing apartments fall short of the average rents in the Washington area. In Montgomery County for example, the average, two-bedroom garden apartment rents for about $238 a month, while the HUD limits have been set at $210 for an apartment of that type in this area.

Miller's point was seconded by John T. O'Neill, executive director of the Apartment and Office Building Association and spokesman for most of the landlords in the Washington area. "The limits are woefully inadequate," O'Neill said. "It's not practical to try and operate a building on those kind of rates."

And despite provisions in the law for periodic and emergency adjustment of the rate limits, O'Neill predicts flatly that Section 8 will not work until there are changes in the economy and in laws—such as rent control—that he said are depressing the apartment industry.

"The problems of producing housing go far beyond the rent subsidies," O'Neill said.

THE COMMON SITUS PICKETING BILL IS A BAD BILL

Mr. CURTIS. Mr. President, I direct attention to the efforts being made by certain union bosses to stampede the Senate into passing the common situs picketing bill.

This bill, if enacted, would make the secondary boycott lawful. Boycotts and work stoppages can ruin a business and deprive many people of the right to do business and the right to make a living.

Mr. President, the American people will soon be rudely awakened by this overt attempt to legalize compulsory unionism. This legislation if enacted, will ultimately serve to drive nonunion workers off their jobs. No worker would dare cross a picket line under such coercive conditions.

Consequently, I request that a letter written to me by Mr. Alvin L. Hoffman be printed in the RECORD which will serve to emphasize some of the critical, negative effects which passage of the common situs picketing bill will impose.

Mr. Hoffman represents neither labor nor management. He is an independent, if you please, in evaluating what is good and what is bad for the construction industry. He is an expert whose objective views need to reach the American people so they can make a judgment based on the facts rather than the propaganda of the labor bosses as to the real effects of this proposed legislation.

I ask unanimous consent that the letter written to me by Mr. Hoffman be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONSTRUCTION INSPECTION SERVICES, INC.,
Silver Spring, Md., September 19, 1975.

Re The Sweeping Impact of H.R. 5900.

Hon. CARL CURTIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CURTIS: The testimony to date, and the imminent Senate debate on the so-called "common situs" bill (HR 5900), prompt me to offer further information on this matter that might be of assistance to yourself and your colleagues.

It seems to me that one of the most important effects that will flow from legalization of "common situs" picketing has not been emphasized either to the public, Congress, or the business community.

That point can be stated succinctly: If a construction trades union has the right to throw a picket line around an entire job or an entire site, even though its immediate dispute may be only with one of a dozen or more building contractors working there, then the union can in fact close down an entire manufacturing operation which may have nothing at all to do with the dispute at hand.

For example: A grain milling operation, or an oil refinery, or a furniture factory, may have been in full operation for years on a given fairly large site. Its managers have decided that a new warehouse or some other facility is required, and awarded contracts for construction of that facility on some corner of the overall site occupied by the manufacturing operation.

But, if I understand the provisions of HR 5900 correctly, a construction union having a dispute with one of the contractors or subcontractors building the facility may throw picket lines around the "whole site," regardless of how many or how few of its own members are affected. This law would also apply to retail operators having an addition built to, or the renovation of, their existing building.

The result should be obvious: An entire milling operation, refinery, factory or a retail merchant could thus be shut down since most unionized and non-union workers would hesitate or refuse to cross a legal picket line.

I believe that if legislators, business men, union workers and the general public clearly understood the dangers involved, they would realize the threat that HR 5900 poses to the national economy, to their own jobs and businesses, and would oppose this legislation. It would place a weapon of enormous power in the hands of the building trades unions. No "companion" bill such as HR 9500, for example, would have much effect in diluting the power of such a weapon.

As you know, I am both published of the newsletter "Construction Economics" and the head of my own inspection firm, Construction Inspection Services, Inc. In these capacities, I am an informed and close observer of the construction industry, but I am neither an employer of labor nor an employee of contractors or engineers. Rather, my services are rendered to the financial interests on construction work, to see to it that payments are made promptly and properly, and oversee other matters of this kind. This demands, of course, an intimate knowledge of the industry and its workings.

Sincerely,

ALVIN L. HOFFMAN,
President.

Mr. CURTIS. Mr. President, I also respectfully call attention to an article written by Mr. Hoffman and published recently in his newsletter, "Construction Economics." The article is entitled "Common Situs—Public Doesn't See Importance," and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COMMON SITUS—PUBLIC DOESN'T SEE IMPORTANCE

Though industry management—and certainly top labor leadership—understand it very well, the implications of the two-part construction labor bills now up for Senate approval don't seem to have dawned on the general public at all.

That's surprising, in a way, since various organizations have even bought full-page ads in many publications decrying the "common situs" bill in particular (HR 5900), and major employer organizations (with one notable exception) and other business groups (like the Chamber of Commerce of the U.S.) have marshaled their forces in strength to fight the idea.

It isn't surprising in other ways.

In the first place, the argument that construction labor should be allowed to strike an entire "work place" sounds plausible enough to the general public, and to other union members.

In the second place, unions in general have always been recipients of special Congressional legislative favors. The fact is that the proposed common situs bill goes beyond even that as far as the *building trade unions* are concerned, namely, that it will grant these unions picketing rights that would be denied to labor organizations in other fields.

In the third place, the real significance—a double blow—hasn't been played up at all. Only vague references have been made to "labor goons" and violence, which have become somewhat old hat to many casual readers. The double significance is very clear on some thoughts:

1. Right to picket an entire work site would be a powerful weapon to force union membership on every workman—or force non-union contractors off the job by pressuring general contractors and owners.

2. "Common situs" picketing could shut down an entire industrial operation that has not direct concern with construction. Example: An oil refinery or textile mill, operating full blast, with a minor construction job

going on in some corner of the plant site. A strike by construction workers on even a very small job or over a minor matter could result in picket lines around the whole plant. Thus it could effectively shut down a whole industrial operation, whose workers have nothing to do with even what's going on on the construction area, don't even belong to anything close to a construction union.

That's a tremendous weapon in the hands of construction unions, who have long been rankled at the rapid growth of non-union operations in the U.S. The economic power it confers is almost unimaginable.

The palliative offered by the Administration, through Labor Secretary John T. Dunlop (HR 9500 and companion Senate bills) tries to dilute the effects. It does so by requiring that national union headquarters (and national contractor organizations) receive 60-day advance notice when a contract is up for renewal or reopening, get some chance to advise locals on their actions; and a 23-man committee be appointed at federal level to intervene, mediate, or take other actions on such disputes, if it chooses to do so. Union top offices are pleased with this idea—they have long decried their lack of control over actions of locals in such matters, actions that have been, on occasion, irresponsible enough to bring the whole union into disrepute.

But contractor-employer groups aren't pleased at all—at least under the circumstances. Normally, they would be expected to support legislation that would provide for national union intervention (thus, in their view, more responsible and better informed actions), and anything that would permit the employers to operate in a more clearly defined common front within an area or a region.

But they read an "either-or" implication in what's been offered: Either accept the "package," or get the "situs" bill alone. Though most contractor organization leaders appear to understand the Dunlop proposal for what it is, they don't like it, and are willing to fight. Dunlop—probably most knowledgeable person now in government on construction labor matters—apparently reads what most Congressional observers do: with the present liberal orientation of Congress in both Houses, chances for passage of the "common situs" bill are better this year than at any time in the more than 10 years that efforts have been made to get such legislation through (to nullify prohibitions imposed by a landmark National Labor Relations Board decision in a matter arising at Denver, Colorado).

Thus, the reasoning seems to run, if the "situs" bill is inevitable, better to get some modification than none at all. Contractor-employers seem to be opting to go down fighting, rather than accept any compromise thus far apparent.

As October begins, chances seem dim: Even a Presidential veto seems unlikely, in view of the fact that part of the "package" had been openly authored by a Cabinet-level member.

CONGRESS WILL HAVE TO SECURE CANAL

Mr. HARRY F. BYRD, JR. Mr. President, the Department of State is pressing ahead with negotiations aimed at surrendering the sovereignty of the United States over the Panama Canal.

I do not believe that this vital waterway can safely be turned over to the unstable government of a small country which has often shown hostility to the United States.

The September 15 edition of the San Diego Union included an excellent column analyzing the campaign being waged to promote the yielding of U.S. sovereignty over the Panama Canal. The writer, John J. O'Malley, correctly describes the effort being made on behalf of this unwise action as a "drumfire of propaganda."

Mr. O'Malley also stresses that any agreement negotiated by the State Department will be subject to ratification by the Senate.

I ask unanimous consent that Mr. O'Malley's column, "Congress Will Have to Secure the Canal," be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONGRESS WILL HAVE TO SECURE CANAL

(By John J. O'Malley)

There is a massive campaign afoot to popularize a retreat from the Panama Canal by the United States. It is gaining momentum every day, and it is terrifying in its implications.

Basically, the drum-fire of propaganda in both the U.S. print and electronic media rests its case on three points.

First, that the Canal Zone is really Panamanian property and that Panama never relinquished its sovereign rights to the area.

Second, that we pressured the Panamanians into giving us a position on the Isthmus of Panama in 1903, using deception to accomplish something that contravened the desires of most Panamanians themselves.

And, finally, that we are even now exploiting the Panamanians, robbing them of canal operating profits that are rightfully theirs.

All three of these contentions are frivolous. None has any basis in truth.

As to the matter of sovereignty, there is no question whatever. The Canal Zone is not in any sense Panama territory. The 1903 Hay-Bunau Varilla treaty with Panama was unequivocal in this regard, granting the United States "perpetual sovereignty over the Canal Zone to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights." The plain fact is the Canal Zone is United States territory, something the United States Supreme Court has subsequently confirmed in a formal opinion.

Second, we did not pressure the Panamanians. It would be more accurate to say that they pressured us.

Following liberation from Spain at the beginning of the 19th Century, Panama joined Venezuela and Ecuador in uniting with Colombia. The union didn't work. Venezuela and Ecuador split off and Panama became disenchanted with the behavior of Colombia because of its exploitation of the people of the Panamanian region. Beyond this, the Panamanians were fearful, because of Colombian incompetence and lethargy, that a canal would be built across Nicaragua instead of Panama, so they were more than glad to negotiate a profitable agreement with the United States.

As a product of their agreement with the U.S., they were paid fairly for both the right to build the Canal ($35 million) and for clear title to the Canal Zone ($160 million). They have flourished in the ensuing 72 years and now, largely due to canal-related employment, the one and one-half million Panamanians have an annual per capita income of $1,000 and a living standard equalled by few other Latin American states.

Finally, the allegation that we are robbing Panama of Canal revenues is totally without foundation.

We give Panama a voluntary $2 million a year payment. And there are no profits. Although toll collections exceed $120,000 annually, the canal has been a losing venture for us during the last few years.

Quite apart from the sophistry that characterizes the campaign of those who want to see us out of Panama, Americans need to take a hard look at just what it would mean to us were the authority over this vital lifeline actually conveyed to the present government of Panama.

It is a Communist government. The Communist Party is the only party recognized in the country. Others are outlawed. The principal government officials are Marxists—every one—and that includes the chief of state, Omar Torrijos, who seized power by force from the elected president in 1968. Freedom of speech and of the press have been totally stifled; the national Congress has been closed. Hatred and defamation of the United States is as much a national policy as are close ties with the Communist world, most particularly the Soviet Union and Cuba.

The attitude of the military government is one of inflexible determination to achieve total authority over the canal, or to punish everyone involved if they are unsuccessful. Just a year ago the acting ambassador to the United States from Panama was unequivocal in a television interview. He said, if they are not successful in their treaty negotiations with us, that "there will be no canal for anybody, not for us, not for the United States, not for the world." This is a thinly disguised threat of violence that neither the United States nor the rest of the world can tolerate, for the 15,000 ships that transit the canal annually are an important element of the world's lifeline.

The fact is, Torrijos and his followers are irresponsible men, and if they were ever in a position to exercise authority over the operation of the canal, they could capriciously bring about major changes in both the economy and the security of our nation.

By jacking up the canal tolls to American shipping they could add substantially to transportation costs, and thus to the cost of end items in our market.

Alternatively, by closing down the canal at their own whim, they could double the cost of maritime fuel for a voyage from the west to the east coast of the United States, and more than double the average transit time from coast to coast.

The Panama Canal is an essential link between the naval forces of the United States deployed in the Atlantic and in the Pacific. It is only because of the waterway that we are able to risk having what amounts to a one-ocean navy.

However, without absolute control of the canal and the essential contiguous land, the United States could not dare to risk the hazard of a one ocean navy. It would be essential, at once to initiate construction of fleets independently able to meet a crisis in either the Atlantic or the Pacific—a massive expenditure which we are now spared only because of our control of the canal.

These factors are appreciated throughout Latin America and, despite understandable sentiments of anti-colonialism, the more steadfast Latin governments take no comfort in the prospect of the canal falling into irresponsible hands.

Even more to the point, these matters are generally understood by the American people at large, and through this understanding there is a very substantial popular sentiment aganist any action which would diminish our sovereignty over the Canal Zone.

What is less well known however, is the fact that in 1974 we agreed to sit down with representatives of Panama and work out an agreement that would initially give the Panamanians jurisdiction over the Canal Zone and, ultimately, would transfer ownership of the canal to Panama. We are doing exactly that right now. Ambassador Ells-

worth Bunker, operating under those guidelines, is hard at work on a Caribbean island, working out the details with representatives of Panama.

Ultimately, it will all have to come before the Congress for ratification, and no American legislative body in history has had a more sobering task than the one the legislators will face when they contemplate a treaty that diminishes our precious sovereignty in Panama. If they conclude that we can risk sharing those 50 precious miles of lifeline with a hostile Communist government; even worse, if they agree to give it away, they will have done their country more harm than a dozen succeeding Congresses could repair.

WILL BOISE PAY NEW YORK'S BILLS?

Mr. McCLURE. Mr. President, it is news in Idaho when Idaho makes news in the Washington Post. I refer to a column in which George Will speculates on how enthusiastically Idahoans will receive the news that they are expected to pay for high-living, excesses, and outright mismanagement in New York City. He is right; they won't like it.

Idahoans have such a spirit of individuality and a sense of responsibility that they are more apt to feel like the fellow who gets stuck with a relative's unpaid bill. They will recall that their own State constitution requires them to balance the budget every year, and they will wonder why then they have to bail out another part of the country with less self-discipline.

It occurs to me that we are already giving New York City a great deal more than it is giving us. Idahoans help subsidize its fuel costs, its welfare recipients, and all of the other aspects of Federal involvement there.

In return, New York gives us a lot of fine things such as those television shows which undermine the morality of our children and the distorted news on network information programs.

The bail-out will raise two questions. First, how can we tell other cities and States that New York is a special case? This is foot-in-the-door legislation of the worst sort.

Second, how do we know that this subsidy will not encourage precisely the behavior that made the subsidy necessary in the first place? We have already seen a lot of that kind of thinking in connection with other programs.

Not all New Yorkers are crying for a Federal bail-out. Vermont Royster in the Wall Street Journal raises the right questions and sounds the right alarms.

As for Mr. Will's question—"Will Boise pay New York's bills?—the answer is an emphatic, "No."

I ask unanimous consent that both articles referred to be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

WILL BOISE PAY NEW YORK'S BILLS?

(By George F. Will)

NEW YORK.—"We're in a very finite position," said the state legislator, referring not to the human condition, which is finite enough, but to the financial condition of New York City, more finite than which you cannot get. In fact, the legislator was acknowledging that, thanks to the city, his state is hearing the hoofbeats of that dark stallion, Privation.

Gov. Hugh Carey seemed almost chipper when responding to the warning that had reduced the legislator to acknowledging finitude. The warning was from Standard & Poors, the investment rating service, which said: Any additional emergency aid from the state to the city will jeopardize the state's credit rating. Carey contentedly responded that the warning "supports precisely" his contention that the recent $2.3 billion loan package for the city is the last life preserver New York State can toss to the city.

Having stuck his toe into the chilly whirlpool and felt its awful downward suction, Carey wants no deeper immersion in the city's disaster. And Standard & Poors' warning demonstrates that the domino theory, temporarily obscured in the dust raised by falling dominos in Southeast Asia, is alive and well in New York and the nation's money markets.

The theory is that default by the city on its debts might push the state into a fiscal crisis and send unpleasant ripples through the economy.

This does not mean the state is an innocent paragon of fiscal rectitude. Remember this about defaulting, which soon may become routine: When the defaulting began in New York this year, it began not with the city but with a huge state agency, the Urban Development Corporation.

Richard Ravitch, who was put in charge of salvaging the UDC, says "the business of government in the 1970s will be to pay for the decisions of the 1960s." Perhaps. But I will wager dollars against donuts—or against New York City bonds, which soon may be even less valuable—that the New York City government's principal preoccupation in the immediate future will be making other people pay for its decision of the 1960s.

If all goes very well for the city—and the more than 200 million Americans who live elsewhere should hope that it does not go this well—the city will get federal aid. For example, the city might like increased revenue-sharing funds or a federal take-over of some state welfare expenses.

That kind of federal efforts is unlikely because the Ford administration opposes it, and the rest of the nation would, if asked. Some commentators insist that this opposition is the result of "anti-New York bias." Such bias is real enough but there is something strange about the notion that "bias" explains why the folks in Boise do not want to pay New York's bills.

Other forms of federal aid could include back-up insurance for those who insure municipal bonds; insurance for state bonds issued on behalf of cities; federal guarantees of loans to cities. Sens. Henry Jackson (D-Wash.), Lloyd Bentsen (D-Tex) and others have proposed plans involving federal guarantees.

Other plans will be forthcoming from other Democratic presidential candidates, most of whom will suffer intensified sympathy for New York as the state's April 6 primary draws near.

Such plans are designed to shield investors from the risk of lending money to cities—New York, really—that are not creditworthy. The immediate and most important purpose of such plans is to rig the money market, to cause cash to flow uphill toward an enormous credit risk—New York.

Such plans would make lenders immune to default by nationalizing losses. Such plans would reduce whatever inhibitions New York City still has about defaulting and guarantee that the city would not adopt the austerities without which default is certain in December or soon after.

The city government says, repeatedly and perfunctorily, that it wants to avoid default, but it does almost nothing to avoid it.

That should be of interest in Boise, and everywhere, too, as politicians in Washington concoct ways of putting federal guarantees behind New York's obligations. Such plans are for putting non-New Yorkers' money where New York's mouth is.

THINKING THINGS OVER

THE STICKING POINT

(By Vermont Royster)

It is obvious that any society with a healthy economy can afford to subsidize some of its members or certain of its activities. That is, to make part or all of their cost a general charge against the labor of the whole community.

It is also obvious that no society, no matter how strong, can subsidize everything. There must be some parts sufficiently productive not only to be self-supporting but to provide the surplus to support what the society chooses to subsidize.

It ought to be equally obvious that in every society there is somewhere a sticking point, a point where the burden of subsidizing too much becomes too great a burden for the remaining productive part of the society.

In simple societies all this is clear enough. Every society subsidizes its young and almost all provide for the old who have passed their productive years. It is not unusual even in primitive societies for those who hunt or till the fields to support priests and poets who are economically unproductive but provide other things people desire. But in such societies it is not too difficult for people to see where the sticking point lies.

Circumstances make it plan when the young have been trained enough and are able to take their part in the work of the community, hunting, tilling or weaving. Nature sees that there are not too many old to over-burden the rest. All can readily agree when they have enough priests or poets.

It is otherwise in a complex, modern industrial society. Where millions of people are engaged in thousands of activities the parts are remote from one another, the relationship between those who spin and those who do not is often obscure. The exchange between them is not the direct one of meat from the hunter and grain from the tiller; the transfer payments are made from a money pool which, seemingly, the government can enlarge without limit.

Nonetheless, the sticking point is there. Even in the most productive modern economies there is a limit to what its productive parts can support in subsidizing the rest. Economists may not be able to say exactly where it is, but recognizing its existence and dealing with it is one of the major problems of politics.

We have in our midst an example of what happens when it is ignored. New York is our largest city and fundamentally our richest and most vital. That it now stands on the edge of bankruptcy ought to be incredible. That it does, and that you better believe it, is not due to the poverty of the city but to the fact that it has piled upon its productive parts a burden those parts cannot bear.

The people of New York could afford to subsidize many public services such as schools and public transportation; to provide wished-for social services, from day schools for working mothers to homes, for the elderly. They could afford a generous welfare program for the indigent. They could bear the cost of a large number of city employes, pay them large salaries and large pensions. They could even afford, if they wished, to subsidize the housing of many of its citizens. Most cities do many of these things.

What crushed New York was the illusion, fostered by its politicians and accepted by its people, that the city could provide all

of them together without limit. The reckoning was inevitable.

An even grimmer example, because it involves not just a city but a whole country, is Great Britain. It all began from the most humanitarian of motives. The British wished, for example, to assure complete health care for all who could not afford it. The device they adopted was to make it "free" for all, rich as well as poor; in effect the whole community would subsidize all of its members. To this, by the same reasoning, was soon added a host of other public subsidies, including food and housing.

All this meant mounting taxes and growing inflation, because one way or another the whole community had to pay for it. The taxes and inflation soon began to so burden the productive parts of the economy that British industry fell behind its competitors; for want of capital it could not replace worn-out machinery.

The consequence of this was that now the government is also subsidizing auto manufacturers, steel mills, shipyards and coal mines. That is to say, many of the parts of the economy which should be not only self-supporting but providing a surplus for subsidizing the health program and the like, these parts are themselves subsidized.

The essence of the British problem, then, is that it has passed the point where the remaining productive part of its economy is sufficient to support that which is being subsidized. It should be obvious that to levy a charge against the whole community greater than the whole community produces cannot be long sustained.

The lesson, I should think, need not be belabored. We are without doubt the richest country in the world. There is no reason, if that is what the people wish, that we cannot subsidize many of the activities of the community, as we now do. There is no inherent economic objection to a welfare program for the indigent or for subsidies to schools, hospitals or the arts. Indeed, these things commend themselves to a decent people as a worthy community burden.

The question is, how much can be supported? How many non-productive people—ranging from the indigent to the bureaucratic clerk—can be supported by those who labor at productive tasks and at what level? How many of the activities of society can be made a charge on the whole? The questions involve not only equity and philosophy, the terms in which they are most often debated, but the harsh reality of the economically possible.

No one can be sure precisely how far we are from the sticking point. But as our civil servants multiply, the welfare rolls grow, the appetites of all manner of government programs increase until we can measure a $70 billion annual gap between what is paid in and paid out, we surely approach it. And we ought to have no illusions about the peril of transgressing it.

CHINA

Mr. HARTKE. Mr. President, October 10 marks the anniversary of the founding of the Republic of China.

The Republic of China, with a population of 16,000,000 people is among America's largest trading partners. The per capita income has risen in recent years to about $900. The gross national product is $14 billion.

In recent years there has been no radical change in the Republic of China's policy toward the United States, and we still maintain a mutual security treaty.

Presently there are 2,800 military personnel on Taiwan, but none of these are described as combat forces. Because of the trading arrangement with the United States, a large number of Americans maintain residences in Taiwan.

The economy of the Republic of China is diversified from textiles to electronics with the fishing industry a steady moneymaker.

The present President is Yen Chai-Kan to whom, along with the government and the people, we extend our congratulations on this anniversary.

WHY THE UNITED STATES SHOULD NOT RECOGNIZE CASTRO'S CUBA

Mr. McCLURE. Mr. President, Senator CARL T. CURTIS expressed some valuable advice for this Nation in a speech to the first Inter-American Conference on Freedom and Security. The conference, sponsored by the American Council for World Freedom, took place here in Washington last week, from September 25 to 28.

In remarks delivered at the Conference banquet saluting the free Cuban exile community, Senator CURTIS set forth minimum conditions which, in his view and mine, must be successfully negotiated with Fidel Castro before the United States moves to normalize relations with Communist Cuba.

His comments were delivered to an audience of prominent Latin American statesmen which included Enrique Urrutia, former President of Chile's Supreme Court; Congresswoman Dulce Salles Cunha of Brazil; and Dr. Carlos Marquez Sterling, chairman of the 1940 Cuban Constitutional Convention.

Mr. President, I ask unanimous consent that Senator CURTIS' thoughtful speech against hasty recognition of Castro be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY SENATOR CARL T. CURTIS

WHY THE UNITED STATES SHOULD NOT RECOGNIZE CASTRO'S CUBA

I am very pleased to be here this evening addressing the first Interamerican Conference on Security and Freedom.

I feel it is a highly encouraging sign for a gathering of this nature to be taking place. This conference serves to highlight the seriousness of the situation in Latin America; at the same time, it acts to serve notice upon Leftist leaders in the American continents of the existence of a solid bloc of individuals committed to fight for the survival of freedom in the Western Hemisphere. In particular, it also expresses a renewed commitment by those of us from the United States to the continued independence of our neighboring countries.

The interdependence of the nations of this hemisphere is far greater than is often realized, and the security and stability of Latin America touches directly upon the welfare of our nation. The political trend in Latin America has been one of an increasingly disturbing nature; we have seen Marxism temporarily implanted in Chile, and other countries, one by one, move toward socialism. Revolutionary violence by Leftist extremists continue to plague much of the hemisphere. But nowhere is there more reason for concern than in Cuba, the declared Marxist stronghold of the Caribbean. And nowhere will the actions taken by the United States have a greater effect on the future of the country—in fact, the whole region—than in Cuba.

This conference, taking place only a month after the lifting of the restrictions on third-country economic trade with Cuba, occurs at a vital time for assessing U.S. policy toward Cuba.

No one is opposed to holding negotiations with another country, particularly negotiations which might have fruitful results. This concept, however, should not be confused with what is taking place. Recent U.S. policy toward Cuba has not served to lay the foundation for meaningful hard bargaining in the future. It has consisted of a series of spontaneous, unilateral concessions which undercut the very possibility of such negotiations taking place. If the United States continues on this path, the effect of its policy on events, not just in Cuba, but all of Latin America, will be disastrous.

It is difficult for many of us to believe that Fidel Castro would ever temper his policies, or soften his dictatorial hold over the Cuban people. However, it is clear that only if this were to happen should our country consider re-establishing relations with the island. The United States stands to gain nothing from renewed relations. All benefit would accrue to Cuba, and it cannot be said that this country would be doing us a favor by allowing us to help it.

I am appalled by the attitude some take in this country. A large number of people genuinely feel the United States is the guilty party for having sought to isolate Cuba; that we should go groveling on our knees to Castro, begging for his forgiveness. They feel that if he should graciously condescend to reestablish relations with us, we will be singularly blessed.

This is ridiculous! We were right in breaking relations and seeking to isolate Cuba, and we were equally correct in refusing to subsidize the spread of tyranny and suppression across the island.

There should be no doubt about the feeling of the majority of Members of the Senate toward Cuba. We have heard a vocal few call for the immediate renewal of ties. It is far more significant, however, that in the past nine months, seven separate resolutions have been introduced in Congress calling for specific conditions to be fulfilled before such a move takes place. In the Senate alone, 18 Members have gone on record as sponsors of these resolutions. In other words, almost one-fifth of the Senate body is actively working against the resumption of relations until fundamental changes take place in Cuba.

Many of these changes are summarized in a resolution recently introduced by my colleague, Senator Bill Brock of Tennessee. The conditions it contains are, in Senator Brock's view and mine, minimal steps that must be taken by Castro's government before any change in relations could be considered.

There must be a fundamental change in the human rights granted to the Cuban people. This includes freedom of speech, free emigration, access by impartial observers to prisons, and the extension of lawful guarantees to those now unlawfully imprisoned.

At the same time, any agreement with Cuba must include the settlement of claims for confiscated American property, now estimated at almost $2 billion. Serious consideration should also be given to granting Cuban citizens compensation for their losses.

There must be acceptance on the part of Fidel Castro of the standards of international law in dealing with international criminals, such as highjackers. It is intolerable we should in any way aid a country serving as a potential haven for individuals committing crimes against American citizens.

It is also important that any agreement

include an acceptance of the principles set forth in the Charter of the Organization of American States, including the principle of non-intervention.

I would make one further condition. I feel it is essential to see a clear, tangible move toward free elections in Cuba, ending the perpetual one-man rule presently established in that country.

These are minimal conditions which must be met. To grant recognition—and benefits—to Communist Cuba under other circumstances is to become a party to the repression of all freedom-loving Cubans.

In order to grasp the matter fully, it is important to have a clear picture of the situation in Cuba today.

Cuban citizens are denied the most basic of human rights. It is difficult for us, brought up in a democratic tradition, to conceive the lack of freedom of expression existing in Cuba. All disagreement with the government is suppressed. No one expressing the slightest criticism, even within his circle of friends, can be assured of preserving his freedom. The neighborhood spy is a national institution, and children are encouraged to turn in their parents if their views are not in accord with the Revolution.

An individual's inclinations are only a factor in the evolution of his life, and in many instances only a minor factor. What a person desires to do with his life is subordinated to the course the all-powerful State feels his life should take. His productivity is regulated by the government.

Religion survives in Cuba only in a tenuous fashion. The Roman Catholic Church is allowed to exist only as part of an understanding whereby it lost its freedom of expression in all secular matters. Still, the Church is allowed few activities outside its regular services. Its followers are persecuted in subtle ways, with clear discrimination existing against practicing Catholics in education and employment.

One of the most shameful aspects of the Cuban government's policies concern the treatment of political prisoners. Estimates on the number of individuals held captive simply for having unpopular political views range from 25,000 to 50,000.

These captives range in age from teenagers to old men in their sixties and seventies, many of whom are suffering from terminal diseases. These men and women are forced to exist under the most appalling conditions imaginable. The cells in which they live are cramped and damp, often with steel-planked doors and windows to keep the light from entering. Severe beatings are normal, and for the most part medical treatment is denied to the prisoners.

The treatment of political prisoners in Cuba has been a matter of grave international concern; it has been denounced repeatedly by the OAS, the International Red Cross and the Inter-American Press Association.

For almost seventeen years there has been no freedom of emigration from Cuba. Close to a million people—and this out of a population of six million in 1959—have managed to flee the island, often risking their lives in the process. All of us have heard stories of the thousands of Cubans who fled their country in rowboats, many only to be captured and executed on the spot.

Other Cubans were able to leave the country through the one daily flight operating until 1972 between Havana and Miami. Few Americans are aware of the hardships suffered by those who departed in this manner. Under Fidel Castro's government, individuals wishing to leave the country were automatically ruled ineligible to work. Therefore, for a period often lasting three or more years, until the exit visa was granted, a family wishing to emigrate was forced to live off the charity of friends. In many instances, these families were arrested for vagrancy and convicted to forced labor camps. In spite of the sacrifices involved, the so-called "Freedom Flights" came to have a waiting list of approximately 100,000. The program, however, no longer exists; even this avenue of escape is now closed to the Cuban people.

Cuba is a country with a shattered economy, being kept alive only by the influx of over $1 million daily in Russian aid. It is interesting that a member of the U.S. Senate staff sympathetic to the Castro government could say nothing more encouraging upon his return from Cuba than that this country's economic system at last stood a chance of suceeding . . . granted, of course, that sugar prices and Russian aid continued at the same high level.

Cuba has lost its position as one of the Latin American countries with the highest standard of living. Food and virtually all goods are rationed. Since the takeover of Castro hardship conditions have become universal, shared by all but high government officials.

Is this a country to which the United States should accord special attention and treatment? Should we be seeking the favor of a government which has enslaved a nation, brought sufferings upon millions of people, caused the deaths of thousands, and brought about extreme hardships by its mismanagement of a once healthy economy?

It is not being narrow-minded to stand firm by one's moral beliefs. Compromising beyond a certain point is a sign not of flexibility but of lack of commitment to principle. We correctly branded Castro as a tyrant and murderer over fifteen years ago, and nothing has occurred since to alter the accuracy of that description. Unless radical changes take place in Cuba, the United States should do nothing to legitimize his regime.

The conditions I have just described represent grave objections to the Communist regime of Cuba. There is one aspect of Castro's policies, however, which is of direct and crucial significance to both Latin American nations and the United States. This is the threat Cuba poses to the entire hemisphere by its export of Marxist revolution and by its potential as a base for Soviet military operations.

There is no question about Fidel Castro's commitment to fomenting unrest anywhere in the globe. Only a few months ago in a television interview Castro succinctly described his feelings toward revolutionaries, "When they fight, we back them." There is no room for misinterpreting this clear statement.

The 1960's were marked by Castro's support of guerrilla movements throughout Latin America. The activities of this decade were perhaps symbolized by the figure of Che Guevara. The role played by Cuba in recent years has been quieter, but no less significant. Evidence indicates that the island is being used as a base for Soviet operations in encouraging subversion in Latin America. Many of the kidnapings taking place in this hemisphere have been tied to Soviet intelligence representatives operating from Havana through a network of Cuban nationals in Latin America.

This should not be taken as an indication, however, that Castro himself has been inactive. The close working relationship between the Cuban leader and Portugese Communists was recently documented in detail by columnist Jack Anderson, who commented, "The military leaders governing Portugal have a secret advisor who has been teaching them how to impose a dictatorship on a country that rejects it."

A threat posed directly to the United States is the relationship between Cuba and the Communist-dominated Puerto Rican Independence Party.

Less than a month ago, an International Conference on Solidarity with Puerto Rican Independence took place, and the meeting site was Havana. During this conference, numerous declarations of unity were made. One member of the Puerto Rican delegation stated, "we take advantage of this opportunity to reaffirm to the Cuban people that we are with them in their struggle." Cuban President Osvaldo Dorticos in turn declared that "Cuba resolutely reaffirms those feelings of solidarity and integrally ratifies its pledges of unlimited support for the Puerto Rican cause."

There is little doubt that Cuban assistance has been behind many of the terrorist bombings which have become a routine part of life in Puerto Rico, wounding and killing numerous American citizens.

In Panama, General Torrijos' campaign to acquire control over the Canal has received warm encouragement and support from Castro, and it is widely believed that Panamanian guerrillas have been receiving training in Cuba.

The Cuban government even ventures within our mainland in its subversive activities. For years it produced broadcasts with a heavy emphasis on race relations which were beamed directly to Miami's black community.

In 1969 it formed the Venceremos—or "We Shall Overcome"—Brigade which remains extremely active today. Under this program, thousands of young American Leftists have been enlisted and trained to carry out espionage functions in this country. Only three days ago there were reports of a Cuban living in this country whom Fidel Castro's agents had attempted to enlist. The individual, who was already an informant for the U.S. government, turned the information over to our agents.

A more direct military threat to the United States results from the Russian naval presence in the Caribbean. Only seven years after the 1972 Missile Crisis the Soviets were back in Cuba, this time to establish a submarine base in the port of Cienfuegos. The facilities remain there and are visited periodically by Soviet submarines, both conventional and nuclear-powered.

The implications of this facility, which provides the Soviets with the ability to expand their naval presence in the area on very short notice, are alarming. Certainly we are under no less danger from the offensive potential of the Cienfuegos submarine base than we ever were from the Soviet missiles in 1962.

Several myths which I find quite disturbing have been gaining increasing popularity in this country. One is the theory that Cuba has softened its attitude toward the U.S., and that our establishing relations and granting concessions to the island would dislodge it from the Soviet sphere of influence.

The country's alleged softening toward us can be dismissed out of hand; Cuba's recent concessions have been as insignificant as the headlines carrying the news about them have been large.

It is interesting to note that almost on the same day that the U.S. removed its restrictions on trade with Cuba by third nations, the Cuban and Vietnamese delegates at an international conference released a statement branding the United States as their common enemy and hailing the U.S.S.R. as the "sure and firm ally of all the people struggling for their independence."

As for weaning Cuba away from Soviet influence, there is little likelihood of this taking place for two reasons. In the first place—and this simple fact is so often overlooked—Castro does not want it to happen. What would he gain? As long as dependence on a foreign nation is made necessary by economic needs, it is logical for him to maintain the closest ties with the country he is most in tune with ideologically. The second reason is that Cuba's drift away from Russian influence simply would not be tolerated by the

Soviets. They did not hesitate to invade Czechoslovakia in 1968, and neither would they hesitate to assert firm control over Cuba if events made it necessary.

There is another myth which has gained a substantial following: that rapprochement with Cuba will improve relations with other Latin American nations.

Many observers of international relations in this country make the fatal mistake of assuming that a given action is viewed in the same light by all people, regardless of their perspective. Thus they fail to realize that an action they themselves may consider magnanimous, such as making overtures to Cuba, would be interpreted as a sign of weakness throughout Latin America—as another instance of the U.S. caving in to its opposition.

Rather than bolster our image in the Southern Hemisphere, renewed U.S. relations with Cuba would deal a deadly psychological blow to anti-Communist efforts in Latin America. Taking such a step would be viewed as serving notice to the world of yet another U.S. retrenchment in its opposition to Communism. It goes without saying, of course, what the image of the tiny island of Cuba emerging the winner over the United States would do to our prestige around the world.

According to yet another myth, establishing relations with Cuba would benefit the United States by opening up a new market for our goods.

However, as a colleague of mine once expressed, all Cuba can offer in return for entry into the broadest capital market in the world is a de-escalation of rhetoric.

We stand to gain nothing from trade with Cuba. Provided that Cuba were interested in trading with us on a cash basis, which is doubtful, its ability to do so would be severely limited by its financial commitments to the Soviet bloc countries. More likely trade with the island would be on the basis of granting long-term, low-interest loans . . . hardly a bargain proposition for us. Entering into such a relationship would simply be subsidizing Castro's inefficient economic policies and relieving the Soviet Union of a severe financial liability.

The United States must not cave in to demands of Fidel Castro. The Cuban dictator needs American assistance and desires the prestige of diplomatic recognition of his tyrannical regime. But until the minimum requirements I have outlined are met by Castro, the United States has no compelling reason to make substantive concessions. If we were to give in to Castro's demands without achieving the conditions I have outlined, then we would be abandoning the principles upon which the United States was founded, and the same principles that the rest of the people in the Americas also believe. Most importantly, we would be abandoning the people of Cuba who have sacrificed and suffered so much under Castro.

We can only be faithful to our own ideals and beliefs if we stand resolutely for the people of Cuba and demand that their plight be relieved.

So until Castro indicates he will end his oppressive policies in Cuba, until he terminates his alliance with the Soviet Union, and until he ceases subversion throughout the hemisphere—until then we must not end our sanctions of his regime.

JIM THORPE

Mr. ABOUREZK. Mr. President, seldom is an issue so far reaching that it gets support from all sides of the political arena. Senate Resolution 144, which would urge the International Olympic Committee to restore Jim Thorpe's records to the official 1912 Olympic books, is such an issue.

As the chairman of the Senate Subcommittee on Indian Affairs and as a cosponsor of Senate Resolution 144, it was recently brought to my attention that President Gerald Ford had written a personal letter to the International Olympic Committee urging them to reinstate Thorpe as an amateur on their records.

Mr. President, I ask unanimous consent that this important letter from the President to Lord Michael Killanin, President, International Olympic Committee, Chateau de Vidy, Lausanne, Switzerland, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, August 8, 1975.

LORD MICHAEL KILLANIN,
President, International Olympic Committee, Chateau de Vidy, Lausanne, Switzerland.

DEAR LORD KILLANIN: It has come to my attention that the Amateur Athletic Union, the governing body for the United States in international competition in athletics, has requested from your Committee favorable consideration of the reinstatement of James P. Thorpe as an amateur athlete in good standing for the period of 1909 through 1912.

Together with the United States Olympic Committee and the Amateur Athletic Union, I hope the reinstatement of Jim Thorpe's amateur status can be achieved. Throughout my life and my active participation in sports, the name of Jim Thorpe has represented excellence, dedication, pride and competitive zeal. Jim Thorpe was one of the greatest athletes the world has known. He has become a legend in this country.

To Americans of Indian heritage, Mr. Thorpe has meant much more. He is a hero, and in the American Indian's struggle for human dignity and freedom, Jim Thorpe represents a man who was able to contribute significantly to American society while retaining the values of his cultural ties with the past.

For this reason, I urge you and your Committee to consider the A.A.U.'s request.

I say this as a private American citizen with a lifetime interest in sports. The decision is clearly up to you and the Committee you represent under the rules of the International Olympic Committee, by which the United States abides. I also recognize that, under the letter of the present-day rules of the Committee, a favorable decision may be difficult to reach, but I hope the Committee will consider this request and act with a sense of equity in the light of history and of the contribution that Jim Thorpe has made to the world of sport.

With warm regards.

GERALD R. FORD.

THE SENATE BUDGET COMMITTEE'S SECOND REPORT PURSUANT TO SECTION 906 OF THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

Mr. MUSKIE. Mr. President, the Senate Budget Committee yesterday filed a second report—Senate Report 94-422—pursuant to section 906 of the Congressional Budget and Impoundment Control Act of 1974 to establish an approximate timetable for consideration and adoption of the second concurrent resolution on the budget for fiscal 1976 and for completion of a reconciliation process, if mandated by the budget resolution. This report also reviews the purposes and procedures associated with the second budget resolution and any subsequent reconciliation process and discusses briefly certain provisions of the Budget Act applicable with respect to fiscal year 1977. A similar report has been filed by the House Budget Committee.

The Senate Budget Committee's first report pursuant to section 906 of the Budget Act (S. Rep. No. 94-27, 94th Cong., 1st Sess., 1975), filed on March 5, 1975, implemented significant portions of the Budget Act for fiscal year 1976. As a result, the Congress passed a first concurrent resolution on the fiscal 1976 budget (H. Con. Res. 218) on May 14, 1975.

The March reports of the two budget committees cautioned that the dates for consideration of the second concurrent resolution might have to be modified "if a significant portion of spending legislation is not completed by Labor Day."

Since the second concurrent resolution on the budget establishes firm ceilings on all budget authority, outlay, and public debt legislation, and sets a minimum revenue level against which subsequent revenue legislation must be measured, it is important that, to the extent possible, all significant spending and revenue legislation be passed by both Houses prior to adoption of the second resolution.

In view of the current pace of congressional action, this report sets forth a revised timetable for the second resolution and reconciliation process. The budget committees expect to report a budget resolution to their respective houses on approximately November 1, a date which would permit final adoption of the budget resolution and completion of any reconciliation process, should it be necessary, before the close of the congressional session. We hope that the second concurrent resolution can be adopted by November 20.

This report also implements section 310(f) of the act, which prohibits adjournment sine die before adoption of the second budget resolution and completion of any subsequent reconciliation process.

Finally, this report explains that section 303(a) of the Budget Act precludes consideration of spending and revenue legislation first applicable to fiscal year 1977 until after adoption of the first concurrent resolution on the budget on or before May 15, 1976. The report also points out that the Budget Committee is authorized under section 303(c) of the Budget Act to recommend a waiver in appropriate cases permitting such legislation to be considered in advance of the first concurrent resolution.

We are grateful for the support we have received from the members of this body, from the chairmen of its committees, and from the leadership on both sides of the aisle as we have implemented various provisions of the Budget Act. We are hopeful that this support will continue as we begin our consideration of the second concurrent resolution.

I ask unanimous consent that the full report be printed in the RECORD.

There being no objection, the report

was ordered to be printed in the RECORD, as follows:

IMPLEMENTATION OF NEW CONGRESSIONAL BUDGET PROCEDURES FOR FISCAL YEAR 1976

TIMETABLE FOR THE SECOND BUDGET RESOLUTION AND RECONCILIATION PROCESS

(S. Rept. 94–422)

I. Purpose of the report

This report, submitted pursuant to Section 906 of the Congressional Budget and Impoundment Control Act of 1974, is intended to establish a timetable for consideration and adoption of the second concurrent resolution on the budget for fiscal year 1976 and for completion of a reconciliation process, if mandated by the budget resolution. In addition, the report reviews the purposes and procedures associated with the second budget resolution and any subsequent reconciliation process, and discusses briefly certain provisions of the Act applicable to the budget process with respect to fiscal year 1977. A similar report is being filed by the House Budget Committee.

II. Timetable for the second budget resolution and reconciliation process

The Congressional Budget and Impoundment Control Act of 1974 provides for the full implementation of the new congressional budget process with respect to new legislation pertaining to fiscal year 1977, which begins on October 1, 1976. Section 906 of the Act authorized the optional application of the new process to fiscal year 1976 upon agreement of the House and Senate Budget Committees and to the extent provided by them in reports to their respective Houses. In accord with this provision, the Senate and House Budget Committees reported an implementation plan for fiscal year 1976 in March of 1975. (S. Rep. No. 94–27 and H. Rep. 94–25, 94th Cong., 1st Sess., 1975).

In their March implementation plans, the Budget Committees did not implement two key intermediate steps in the congressional budget process: (i) the reporting of authorizing legislation by May 15 (Section 402) and (ii) completion of action on spending measures by mid-September (Section 304). This decision was based on reliable indications from House and Senate Committees that the deadlines could not be met, largely because fiscal year 1976 began on July 1, 1975, too soon to complete the authorization and appropriation process prior to the commencement of the fiscal year. (Under the Budget Act, the fiscal year will commence on October 1 in 1976 and all years thereafter.)

Although the Budget Committees strongly urged "rapid action on both authorizing and spending legislation," the committees cautioned in their March reports "that it may be impracticable to proceed to a second resolution and reconciliation in accordance with the above dates (September 15 and 25, respectively) if a significant portion of spending legislation is not completed by Labor Day, and that it may be necessary to modify these dates."

Since the second concurrent resolution on the budget establishes firm ceilings on all budget authority, outlay, and public debt legislation for the fiscal year, and sets a minimum revenue level against which subsequent revenue legislation must be measured, it is important that, to the maximum possible extent, all significant spending and revenue legislation be passed by both Houses prior to adoption of the second resolution.

In view of the current pace of congressional action, the House and Senate Budget Committees have established a revised timetable for the second resolution and reconciliation process. The Budget Committees expect to report a budget resolution to their respective Houses on approximately November 1, a date which would permit final adoption of the budget resolution and completion of any reconciliation process, should it be necessary, before the close of the congressional session. This report implements Section 310(f) of the Act, which prohibits adjournment sine die before adoption of the second budget resolution and completion of any subsequent reconciliation process.

III. The second budget resolution

The first concurrent resolution on the budget (H. Con. Res. 218, adopted on May 14 of this year) established overall revenue, spending, and debt targets for the 1976 fiscal year. The resolution did not contain budget authority and outlay figures by functional category of the budget, as will be required in future years, but the derivation of the aggregate numbers from functional targets used by the Budget Committees was explained in the committee reports and Statement of Managers accompanying the conference report. As action has proceeded during the course of this session on budget-related legislation, Congress has utilized the score-keeping reports issued by the Congressional Budget Office, as well as estimates prepared by each of the Budget Committees, to keep informed on the status of all of the targets.

The second budget resolution will fix ceilings which shall be applicable to all subsequent revenue, debt, and spending legislation. Once the second resolution has been adopted, Congress cannot take any action which will increase aggregate spending above the level specified in the second resolution or reduce revenues below the level specified in the resolution. Throughout the remainder of the 1976 fiscal year, Congress will have the option to adjust these ceilings in other budget resolutions, if circumstances require it.

The second resolution for fiscal year 1976 will have the same format as the resolution adopted last May. It will deal only with budgetary aggregates and not functional category breakdowns, although the totals for each function will be explained in committee reports.

Through the second budget resolution, Congress can require legislation to be adopted which conforms revenue, spending, and debt legislation with the determinations made in adopting the resolution. This reconciliation process will take place only if it is necessary to revise existing (or pending) legislation to achieve the spending and revenue levels set in the second budget resolution. If the second concurrent resolution requires reconciliation actions solely within the jurisdiction of one committee of the Senate, that committee will report its reconciliation bill or resolution directly to the Senate. Should more than one committee be required to report changes, Section 310(c) of the Congressional Budget Act requires that the changes be submitted to the Senate Budget Committee which in turn reports such changes to the Senate.

IV. Application of the congressional budget process to fiscal year 1977

Section 905 of the Congressional Budget Act mandates full implementation of the congressional budget process with respect to new legislation pertaining to fiscal year 1977, which commences October 1, 1976. This implementation is a matter over which the law gives the Budget Committee no discretion.

The Committee believes that this report provides a useful opportunity to review briefly some of the most important of the new budget procedures, especially those which affect other standing committees of the Senate.

Although the Act does not specify a date upon which the new process takes effect with respect to fiscal year 1977, the Committee believes that any legislation affecting the 1977 budget is governed by Section 905.

The most important provision of the Budget Act in this context is Section 303(a) of the Act, which prohibits the consideration of revenue, spending, or debt legislation with respect to any fiscal year before the first budget resolution for that year has been adopted. Hence, the Budget Act precludes consideration of spending and revenue legislation first applicable to fiscal year 1977 until after adoption of the First Concurrent Resolution on the Budget on or before May 15, 1976.

The Committee recognizes that some committees may not have been aware of this cutoff date and that they are well along in the formulation of legislation first applicable to fiscal 1977 which they plan to have considered prior to May 15, 1976, the date by which the First Concurrent Resolution for fiscal 1977 will be adopted. These committees have proceeded in good faith and without any intent to circumvent the congressional budget process. The Budget Committee is authorized under Section 303(c) to recommend a waiver in appropriate cases permitting such legislation to be considered in advance of the First Concurrent Resolution on the Budget next May 15.

Other notable provisions of the Budget Act now in effect by operation of law include:

On November 10th of this year, the President is required to submit his Current Services Budget for fiscal year 1977, to be followed by his full budget proposals 15 days after Congress meets next January. (Sec. 605). On or before March 15th, each standing committee of the Senate must submit to the Committee on the Budget estimates of the amounts of new budget authority and budget outlays which may be contained in spending legislation intended to be effective in the coming fiscal year. This procedure was also in effect this year. (Sec. 301(c)).

Section 302(a) and (b) provide the "crosswalking" procedures under which committees having jurisdiction over spending authority will translate the budget targets of the First Budget Resolution into amounts to be included in their spending legislation. Section 302(a) requires that the Statement of Managers accompanying the conference report on the First Budget Resolution will include an estimated allocation of budget authority and outlays among House and Senate Committees which have jurisdiction over spending legislation. Section 302(b) directs that the Committees on Appropriations will further subdivide the amount allocated to them in the Statement of Managers among their various subcommittees. Section 302(b)(2) directs that all other committees to which an allocation was made in the First Budget Resolution will make a similar subdivision among subcommittees. In this way, the translation or "crosswalk" between the functional targets of the Budget Resolution and the regular appropriations bills and other spending legislation will be made.

Section 308(a) requires that committees which report legislation providing new budget authority or new or increased tax expenditures include in the report accompanying such legislation a comparison of the new budget authority or tax expenditures with the figures in the Budget Resolution, as well as five-year projections for outlays or tax expenditures which will result.

Finally, the Budget Act provides two procedures which may alter, in some respects, the handling of spending legislation. First, Section 307 of the Budget Act provides that before the House Appropriations Committee can report its first regular appropriations bill, it must, to the extent practicable, complete subcommittee mark-up and full committee action on all regular appropriations bills and provide to the House of Representatives a summary of its actions. Thus, before taking up any appropriations bills, the Congress will have before it an initial comparison between the likely contents of all appropriations bills

and the "crosswalk" figures of the Budget Resolution.

Additionally, Section 301(b)(1) provides an optional procedure which can be implemented in a first concurrent budget resolution. Under this procedure, spending legislation which has been passed by the Congress shall not be enrolled and shall be held at the desk until the Second Concurrent Resolution and any necessary reconciliation process have been completed. In this way, the process of reconciliation can be accomplished by means of a resolution which directs the Clerk of the House or the Secretary of the Senate to make changes in these unenrolled bills.

The Committee has in preparation a series of briefing papers which it hopes will be useful to other committees in meeting the requirements of the Budget Act.

PHYSICIAN GROUP SUPPORTS NUCLEAR REAPPRAISAL ACTS

Mr. GRAVEL. Mr. President, the National Medical Association has endorsed the Nuclear Reappraisal Acts introduced in both Houses of the Congress.

This nationwide organization of 4,000 physicians says the problems of nuclear waste disposal must be resolved before any massive commitment is made to nuclear power. The physicians also say the effects of low-level radioactive emissions are not sufficiently known to justify the great expansion of nuclear power which is currently proposed.

Mr. President, I ask unanimous consent that the resolution of the National Medical Association on nuclear powerplants be printed at this point in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

NUCLEAR POWER PLANTS

Whereas, Nuclear power plants in normal operation have low-level emissions of radiation; when there are mechanical failures, these emissions may increase; in 1973–74 the AEC investigated 1148 safety violations involving reactors. (2,3)

Whereas, Radionuclides contained in the emissions enter the soil, air and water. They are inhaled or ingested by the general population at random, localizing in various tissues in the body and irradiating these tissues until their radioactivity is spent.

Whereas, The biological effects of low-level radiation are not known. Significant research on this subject is now in progress; several investigators have suggested correlations between the increase in nuclear reactors and the increase in cancer, infant mortality and congenital abnormalities. (4,5)

Whereas, There are serious technological problems in the transportation and disposal of radioactive wastes and in the back-up cooling systems in nuclear plants. Numerous minor accidents have occurred, several major accidents have occurred and a catastrophic accident is possible. (1,6,7)

Whereas, The environmental monitoring safeguards in many areas are inadequate. The local populations in the vicinity of many nuclear reactors, often the rural poor, are ill-informed as to the potential hazards. (4)

Whereas, Several nuclear power plants have been constructed or are being planned in areas where instability in the underlying geological strata are known to exist. (8)

We, therefore, recommend that:

The National Medical Association:

1. Support legislation to declare a moratorium in the construction of nuclear power plants. The Nuclear Energy Reappraisal Act (H.R. 4971) was introduced by Representative Hamilton Fish (R., N.Y.) and Edward Pattison (D., N.Y.).

2. Support legislation designed to increase research and development of alternate energy sources.

3. Support national agencies such as the Environmental Protective Agency in promoting comprehensive environmental monitoring programs.

4. Encourage constituent State organizations to pursue similar programs at the State level.

5. Establish a permanent Committee on Environmental Health and Safety.

THE MAGNUSON–MOSS WARRANTY–FEDERAL TRADE COMMISSION IMPROVEMENT ACT

Mr. MAGNUSON. Mr. President, Leonard Sloane, in his Personal Finance column in the September 29, 1975, New York Times, wrote an excellent report on the impact of the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act. This act has been called a landmark consumer statute, and is one which I was greatly pleased to sponsor.

The Magnuson-Moss Act will stimulate competition in the manufacture of durableo goods by letting the consumer know, once and for all, what he can expect in the way of performance from a product under warranty. By knowing his warranty rights, and by seeing the degree of quality which a manufacturer puts into his product in order to meet requirements under the warranty, the consumer cannot help but get a better deal in the marketplace. Perhaps the most important provision of the Magnuson-Moss Warranty Act, in addition to its disclosure requirements, is the ability it gives the consumer to enforce the law himself in the appropriate judicial forum.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEW LAW TO HELP CONSUMERS GRASP WHAT A WARRANTY IS REALLY OFFERING

(By Leonard Sloane)

A woman purchased a hairdryer at a department store and within six months the casing split under heat. When she returned the dryer, she was told that its warranty covered only internal parts.

A man bought a new car that had to be repaired by the dealer more than a dozen times in the first year. When he finally demanded a replacement vehicle, he was refused on the basis that any problems with his car would have to be worked out regardless of the time required.

A family acquired a television set and resold it before the warranty period expired. The new owner discovered that service calls were not covered because the warranty applied to the original purchaser only.

Situations like these are less likely to occur in the future as a result of the new Magnuson-Moss Warranty-Federal Trade Commission Improvement Act. The heart of this measure is disclosure—not only of limitations and disclaimers, but also of actual guarantees that consumers can understand when making a purchase.

The act, also called the consumer product warranty law, follows many years of inaction on warranty abuses by both large and small companies. Although its effects will not be fully felt until the F.T.C. promulgates rules to implement certain aspects of the law—and promulgation is unlikely for many months because hearings are still going on—the concept of such a law is an important step forward in consumer protection.

There are a number of aspects of this law that should benefit the public.

It is designed to stimulate greater understanding of written warranties by providing for clear, unmistakable language of what is being offered by a manufacturer and what is not being offered.

The law also distinguishes between two types of warranties—full and limited. And it states that the consumer must be shown the warranty prior to the purchase.

With a full warranty, a manufacturer is required to correct deficits at no charge within a "reasonable time" regardless of who owns the product during the warranty period. Any deviation from this unconditional assurance must be designated a limited warranty.

Disclaimers of implied warranties will no longer be allowed in written warranties, thereby giving consumers greater assurance of warranty performance. For products manufactured after July 4, 1975, such terms as "in lieu of all other express warranties" cannot be used to limit a producer's liability.

In addition, companies will not be able to insist on "tie-ins" to make their warranties effective. For example, an automotive manufacturer will not be able to demand the use of a certain car wax or an appliance producer will not be able to require the use of a certain service company.

Shoppers will obviously be better protected if they select products with full warranties. But whether or not the item you buy has one, here are some points to check:

Determine the length and terms of the warranty period. Some companies guarantee the entire product for the entire period, while others cover some parts of the product for different times. And ask if use of the products affects the length of the warranty.

Discover where the service will be provided. Is there a nearby retailer or repair center where the item will be serviced or must it be returned to the factory at the customer's expense? Will major appliances, pianos and furniture be serviced or picked up at the customer's home while the warranty is in effect?

Make certain whether labor is covered by the warranty. If so, is it covered wherever the work is done or only on the manufacturer's premises?

Find out what will the warrantor do when the product fails—replace it, repair it or offer a refund? Is there any limit on the length of time that replacement will take? And are there provisions meanwhile, for "loaner" units?

Regardless of the requirements and prohibitions in the law, the normal buying precautions before making a major purchase should still be observed. Compare prices, workmanship . . . availability, serviceability and compare variations in warranties. They could be a factor in the decision as to what product to buy.

A CRISIS TEAM APPROACH TO SCHOOL DESEGREGATION

Mr. KENNEDY. Mr. President, I would like to enter in the RECORD the recent remarks of Congressman ANDREW YOUNG from the Fifth District, Fulton County, Ga., delivered at Boston University Medical Center.

Congressman YOUNG's remarks on the school desegregation plans in Boston are especially important to those of us who have worked to make those plans succeed.

As a close associate of Dr. Martin Luther King, Jr., Congressman YOUNG's remarks clearly reflect the ideals of nonviolence and the determination to persevere for justice through an appeal for reason and understanding.

With the recent resurgence of overt controversy on school desegregation, it is important to formulate ideas and plans that would tap community resources in accomplishing school desegregation as smoothly as possible. Congressman YOUNG offers a remarkable and viable training tool for this purpose.

For this reason, I ask unanimous consent to have Congressman YOUNG's remarks printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SOME THOUGHTS ABOUT A CRISIS TEAM APPROACH TO BOSTON'S SCHOOL DESEGREGATION

(By The Rev. ANDREW YOUNG, U.S. Congressman)

(NOTE.—Rev. Andrew Young was formerly a close associate of Dr. Martin Luther King in the Southern Leadership Conference. Presently he is a Representative from the Fifth District, Fulton County, Georgia)

The concept which Martin Luther King used in dealing with problems in the South was very similar to yours: it was the crisis team. We never called it that; but by and large when something happened we would take a group of people into the situation. I think the diversity of that group was important—we were all different. Everyone gravitated to the thing which he felt most comfortable with, and there were some people who immediately began to try to keep some control over a situation; and I say that not in any negative sense. It doesn't do anybody any good for chaos to break out. It doesn't do the Black community any good; nor does it do the White community any good. One of the things you have to get over to people is the fact that "when the going gets rough we're going to make progress." I think the history of the struggle in Black America would bear that out if you'd see it. There has not been a single place where violence and chaos happened that any body has made any real progress. The best evidence for that is that it has never repeated itself.

There never has been a single community where violence has occurred that it hasn't occurred again on a later basis. You had a string of riots in the late 60's—or whatever you want to call them. But the people themselves evidently decided that riots didn't do what they wanted them to do, or that the cost was too great to pay, because they never happened again. They're generally a one-time experience. The only city where there have been two riots was in Chicago. On one occasion it was Blacks on the West Side; on the other occasion it was the Chicano community in another part of the city altogether. In the South, the only time we lost a movement (and we didn't lose it altogether) and the only time in ten years that we didn't accomplish what we set out to accomplish, was in Albany, Georgia, where we did not control violence in the Black community and where the Black community lashed out at the police. We found ourselves losing the moral initiative.

The issue then was no longer desegregation of public facilities; but the violence in the Black community. So I would say that generally, in my experience, the persons who are responsible for violence occurring, are not the persons who get blamed for it. I don't think the Black community in most of these riots were responsible for violence—they were blamed for it though. But, the fact that they were successfully blamed for it means that they lost. In Birmingham the year after Albany we convinced the Black community that if violence occurred it was just going to help George Wallace. Any Black folk irresponsible and angry to the point of doing something violent were really playing right into the hands of the Wallace forces. We were able to successfully curtail violence and I can't emphasize that too much.

Dr. King used to talk about three kinds of violence, an aggressive violence, a retaliatory violence, a defensive violence. Basically we have found that the first two just don't help; and the third one doesn't help but it doesn't hurt. I would say that when you're talking about kids in a school situation—and even if they resort to defensive violence they're going to be expelled. Therefore we need someone to help them negotiate their crises. Black folk negotiate all the time. If you can't negotiate you can't survive in the Black community. By and large you're always negotiating your way through situations. There are so many folk in the Black community with a chip on their shoulder and who are looking for someone to beat up on; on every playground, in every candy store. There's someone who's going to try to "take your candy away when you're five years old." By and large you learn how to "keep your candy in your neighborhood." I have a lot of confidence in the kids' ability to use their skills and resources to negotiate in almost any situation they find themselves.

When you look at the history of school desegregation across this country, there's not a single place where the kids have failed. They went into some places that were literally hell, and somehow made it. They made it by using those survival resources they developed from childhood. Black children especially are more prepared for survival than any other people in America. We must help to realize that—some of the same skills they learned to survive with in their neighborhoods are going to help them now.

One of the problems I think you have in Boston is that you don't have nearly enough contact between Blacks and Whites. That's one of the problems in talking so much about how bad the Boston Irish are. They're not that bad. I grew up in an Irish community in Louisiana and they were just as pugnacious. We were the only Blacks in their neighborhood and we fought just about every day, but we didn't lose that many. Those we couldn't win we could outrun! You survive in that kind of situation, and that's not hard for Black folk because they have those survival skills. One of your jobs as a team is to make them confident of their survival skills so that they don't become afraid. I think in any conflict when you get afraid, your mental facilities are paralyzed and you tend to function emotionally and lose. That's in *any* competition, and I think they have to see this as a kind of competition. Your job as a team is to help the various facets of the community realize their own skills.

The only reason we're taking on this problem in the first place is that we have understood that the greatest damage that is done to Black folk is the spiritual and emotional damage that's done by isolation and oppression, we can't cure. I remember the time they put police dogs on the Black folk in Birmingham, and everyone came back panicked into the church, and suddenly it dawned on me that we were up against a dog and a billy-club. I asked how many folk has been hit on the head with a baseball bat, and sure enough about half the church had.

I asked how many had been bitten by a dog. And most folk just in the course of growing up with dogs all over the street had sometime had a dog get a hold of them. What happens is with one you get a lockjaw shot and with the other you have a headache for a while. It didn't produce a concussion. You got hit on the head with a baseball bat, and you kept on going and didn't even stop the game. Then why is it that you're so afraid of this kind of thing? It's typical to get hit on the head with a brick as a kid. There's nothing unusual about it; it happens every day in every community for nothing!

What you're talking about now is your participation in a tremendous social revolution! If you've suffered these kinds of physical accidents for nothing, will you make a decision to suffer them as a necessary part of a tremendous social revolution? Most kids will . . . say "Yeah" that's not a big price to pay. Once they get over that hurdle of not being afraid and if they can analyze the things that can happen to them, and deal with them in their own mind as something they are not going to run from, then most of the problems are solved. Again I don't know all the mechanisms for solving those problems inside kids, but they do it! They come through when you can make them use their heads instead of reacting emotionally or out of fear. It is fear that creates most of the problems.

Your job as part of a crisis team is to find ways to organize a community or school to the point where people understand intellectually what is happening, and not being afraid, that they can make conscious decisions—that this is worth the risk involved. We once said to folk "Look, if the man tells you to go to Viet Nam, you're going to go and not question it, and you're going to fight for somebody else's freedom and maybe lose your life!" The question now is, are you going to do it without questioning it? How much are you willing to do for your own freedom right here in Boston and your own educational opportunity? You will find that most of them are willing to do almost anything that's necessary.

Whoever comes up with the best first idea emerges as the leader. In a crisis people tend to get paralyzed and your job is to somehow find a way to break the paralysis. One of the ways of doing that is to do it far enough in advance, and get your contacts. I would think that you're not going to have much trouble from the school kids, because they are already involved and have worked out what their role is. The ones you're going to have the problems with in the crisis are those who are not involved and are guilty because they're not involved. They will appear to be militant to overcome their own guilt about not having done anything.

In the South it was the folk who said "Man, I can't be nonviolent, I'd kill people in a minute, you know." You ask them "How many have you killed. You plan to kill anybody today? Or you got plans to kill somebody tomorrow? If you do, we'll step out of the way and let you go on and kill folk. But, if you're not going to kill anybody today or tomorrow, go ahead and sit down and be cool and let us handle this situation."

Either you've got to decide you're going to be violent; in which case it doesn't make sense to expose yourself, or you got to make a decision to be nonviolent. Every incident of violence has occurred when someone does something crazy on the fringe and runs! This gives the police opportunity to beat up on the people who are exposed. So you've got to get the fringes controlled in a crisis. You need to identify the fringe folk in the community and find a way to communicate with them, in addition to working with the kids who are actually going to be in the situation.

I haven't seen a place yet where folk got together and failed. Usually when we fail it's because we didn't get together and talk about it and plan about it. Since you all are together working as a team and working out a concept you're going to take care of business. So God bless you.

OCTOBER 5–11—4–H NATIONAL CLUB WEEK

Mr. HUGH SCOTT. Mr. President, the week of October 5 through October 11 has been set aside as 4–H National Club Week. It gives me pleasure to pay tribute to the 75,000 members in Pennsylvania and the more than 7,000,000 members across the Nation. The 4–H, throughout its 70-year history, has been devoted to creating responsible young individuals who serve their communities as good citizens. Through active participation in various projects the 4–H'ers acquire skills which will make them productive and useful citizens.

The young of America are the future adult citizens and leaders of this country. As future leaders they will have to face and cope with complicated problems. The way our young people respond and solve problems will determine what kind of world will exist. Through involvement in the 4–H Club, the young person gains the proper skills in solving problems. They learn how to make decisions and come up with innovative solutions to problems. The knowledge they gain as members of the 4–H Club will help to build a better America.

The 4–H'er has a deep concern for the community and is aware of its needs. Members of the 4–H Club do all they can in their individual way to improve their communities. This is accomplished through individual projects. I am impressed with flexibility of the 4–H Club. It has moved with the times and extends itself into the urban areas as well as rural regions. Whether a member is working in a field learning to grow corn or engaged in beautifying a crowded urban street, the basic principle behind 4–H is the same. And that principle is character building and good citizenship. Both are developed towards making the world a better place to live.

Through the various 4–H programs, nationally and internationally, the projects and activities in which members participate benefit communities and help improve communications and understanding between different countries and among American citizens. As I look at American youth, I have great hope in their capabilities and skills. I salute 4–H during their National Week for developing individual potentials, improving young people's lives, and teaching important skills that enable young people to know themselves and their communities. For it is through such work as the 4–H that this Nation can hope to remain the great country it is and to improve today's world for a better America in the future. It is not surprising to see that this year's 4–H slogan reads "4–H '76 Spirit of Tomorrow."

FREE MARKET VERSUS "PLANNING"

Mr. FANNIN. Mr. President, since introduction of S. 1795, the Balanced Growth and Economic Planning Act of 1975, several colleagues and I, as well as numerous individuals outside of Congress, have commented on this unfortunate piece of legislation. The purpose of S. 1795 is to create a new Federal Superagency to conduct national economic planning.

There is nothing new in the idea that economic planning will allow us to avoid periods of recession and inflation such as we have experienced during the past year. The myth that central planning will achieve universal prosperity, welfare, and happiness has been fostered by social planners for years. Apparently those who promote economic planning either have not examined or have not learned from the experiences of other countries, like England which is now paying the awful price of social welfarism and national economic planning.

There are others in the Congress, and I include myself in this group, who believe that what our economy really needs is a refreshing and permanent break from Government regulation and interference. Our belief in the free market economic system remains resolute.

Mr. President, the Arizona Republic recently published a letter to the editor regarding S. 1795 from Mr. William H. Peterson, the John David Campbell Professor of American Business, American Graduate School of International Management. Mr. Peterson's incisive remarks in opposition to national economic planning in favor of the free market system are well worth reading. I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Arizona Republic, Sept. 23, 1975]

FREE MARKET VS. 'PLANNING'

EDITOR, The Arizona Republic:

Bully for Mrs. John George Knight of Scottsdale and her letter criticizing the sweet-sounding Humphrey-Javits "Balanced Growth and Economic Planning Act of 1975," Senate Bill S–1795.

With government spending now accounting for more than one-third of the Gross National Product, of course it makes sense that Uncle Sam husband our resources carefully and spend them intelligently.

But the implications of the bill go far beyond these reasonable ends. The bill would create a federal Economic Planning Board. The board would prepare a national economic master plan—a plan seeking "full employment, price stability, balanced economic growth, an equitable distribution of income," and so on.

Grandiose goals, to be sure. But how do Messrs. Humphrey, Javits et al. figure on achieving them? Through the dismal science of economics, and through government clout.

For unlike the rest of us, private planners all, government can not only plan, it can command. So as Nobel Laureate in Economics F. A. Hayek noted, the question is not planning vs. no planning but who plans for whom?

Or, more boldly, who does what to whom?

Consider recent government planning, from congressional reversal of the seatbelt interlock system to the underwhelming victory of the 1971–1974 wage-price controls to the circusy "old-oil, new-oil" energy program to Senator Humphey's candor on government fallibility to an economic policy group in early 1975. He admitted: "Congress can't even run the Senate restaurant."

And with all respect to my peers in the economic profession, for years we've been caught with our parameters down and our forecasts sadly amiss, for all our fancy econometrics and computerized models of the U.S. economy. At the end of 1973, for example, Business Week polled 25 of the top economists in the country on the outlook for 1974. All, save two, foresaw a rising real GNP. Real GNP in 1974, we now know with 20–20 hindsight, went down.

No, what we need is not more government planning of our lives but less. Consider the universal failure of national planning abroad, notably in Great Britain among the major industrial economies and in India among the Third World countries.

Considering the sparkling success of private planning—the free market system—here. Real income per person has doubled every generation, a seven-fold increase from 1872 to 1972, when the U.S. population went from under 50 million to over 200 million.

When national planning did accelerate in the 1930's, what should have been but a recession became the Great Depression.

WILLIAM H. PETERSON,
The John David Campbell Professor of American Business, American Graduate School of International Management.

SENATOR GRAVEL CALLS FOR AN INTERNATIONAL APPROACH TO ESTABLISHING A LAW OF THE SEA

Mr. HUMPHREY. Mr. President, I would like to call the attention of this body to a statement by our colleague, Mr. GRAVEL, who has presented a very thoughtful and statesman-like position for supporting an international approach to establishing a law of the sea.

In his statement titled; "Sleeper of the Century," Mr. GRAVEL makes a case for supporting the efforts of the United Nations Law of the Sea Conference to achieve international recognition of a 200-mile economic zone, govern the mining of rich seabed mineral deposits, govern the transit of ships, control and protect the oceans' environment and set up enforcement provisions to give an oceans treaty the force of law.

Mr. President, my colleague from Alaska, which is one of the major fishing States in this great Nation, feels so strongly that only through international cooperation can we bring the order of law to the world's oceans, that he has taken this position at considerable political risk.

Mr. GRAVEL counsels about the danger of unilateral action on legislation to establish a 200-mile fisheries limit. He suggests that such a declaration would move other nations, already committed to the 200-mile concept, to follow in our steps and declare their own unilateral 200-mile limit. He argues convincingly that such action would undermine the international efforts toward this end and thus dash the hopes of achieving a law of the sea treaty.

Mr. President, taking such a position—even in the face of major opposition from his own constituency, takes courage. We know that Mr. GRAVEL is long on courage, especially when it is something that he believes in. He very obviously believes that the United Na-

tions efforts should be given support and that through international cooperation, we can achieve a law that will husband our oceans' resources for all humankind. I commend his statement to the reading of this body. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE SLEEPER OF THE CENTURY

(By MIKE GRAVEL)

A great but quiet revolution is underway among the governments of the world. For the first time in history, nations are planning to cede real authority to an international institution. I am speaking of the Law of the Sea negotiations, which may extend international sovereignty to two-third's of the earth's surface. This may very well be a milestone in world history as important as the advent of feudalism and nationalism.

Throughout the history of mankind, social and cultural change has followed on the heels of technological advancement. The advent of man's ability to use atomic and hydrogen bombs brought the people of this world face to face with the possibility that all human life could be destroyed. The awesomeness of this technological power has bred a fear that our social and political institutions may not be able to adapt rapidly enough to protect us from our scientific advancements. We have thus grown up in the "Atomic Age", living under the constant threat of "doomsday". We have grown up for the first time fully realizing the possibility that man may not survive on this planet.

How ironic it is, then, that in the midst of one of the most remarkable revolutions of all time—the coming of meaningful international cooperation—little real interest has been generated in this or any other nation. In fact, our media have all but ignored this remarkable event.

The Law of the Sea Conference, organized under the auspices of the United Nations, is preciously close to completing a final charter for the oceans. The great promise that international law—rather than military or economic might—will finally govern the code of conduct on the oceans is being fulfilled. Tribunals and courts of arbitration—rather than gunboats and bombers—will settle disputes between all parties, private or public, weak or powerful. The very promising prospect of success in 1976 of the Law of the Sea Conference should warrant making it the top priority on the agenda of each and every nation on this planet.

The success of this Conference can be the harbinger of a new world order that would include disarmament, economic justice, and the hope that some degree of international sovereignty will extend over the last one-third of the earth's surface.

There comes a time in the course of all serious deliberations when timing is critical. That point has now been reached with respect to the Law of the Sea Conference. Unfortunately, forces that could frustrate the Conference are becoming stronger. Therefore, those who support international cooperation must strongly press for successful completion of the Law of the Sea agreement now, or see this tremendous prospect wither and hold only the interest of academics and political dilettantes.

The Law of the Sea Conference is particularly vulnerable to the often capricious whims of the big world powers. Any one of the major powers could disrupt the very complex and sophisticated negotiations now underway. Any major power that chose to act unilaterally—on fishing, on deep-sea mining or any other important area—would trigger similar actions by other nations. The oceans would continue to be the victim in a contest between national interests.

At the moment, I must say with no great pride that one of the major threats to the promise of international sovereignty over the oceans comes from the United States. Some U.S. mining and fishery interests in our country have no faith in the success of the Law of the Sea Conference. They feel that the assertion of national power is the only way to protect their economic interests. Though this feeling is by no means universal—many in the mining and fishery communities are strong advocates of international action—it is strong enough to threaten the success of the Law of the Sea Conference.

Some U.S. mining interests are frustrated and impatient over the tediousness of negotiations. They have the technology to exploit the vast mineral resources of the deep seas and bring them to worldwide markets. They also have a strong belief in an economic system that permits them to do just that, whenever and wherever they please. They also suspect the motives of those nations involved in the Law of the Sea negotiations which might suffer economic dislocations from competition in the copper, manganese and other mineral markets as a result of widespread deep-sea mining. Consequently these mining interests regard with deep suspicion proposals for international, rather than private, development of ocean mineral resources. They also do not understand why the underdeveloped world distrusts both the "free enterprise system" and its chief actor the multinational corporation.

These domestic economic interests must realize that as a nation, we are no longer prepared to use our military might to protect the extension of their economic influence. They must realize that international rather than national sovereignty over the "common heritage of mankind" and internationally sanctioned access to ocean minerals is the only order that is capable of providing a stable investment environment.

I believe that patience and well-placed pressure, not unilateral action, will best bring about a successful conclusion to the Law of the Sea negotiations.

In our efforts to secure mining rights to the ocean sea-bed, we should demonstrate to the underdeveloped world—from whom we must secure agreement on this point—that the multinational corporation is one of the most efficient economic units yet created. As such, it is capable of bringing together the capital, technology and management needed to bridge the growing gap between the rich nations and the poor. We can demonstrate, if we have the patience, that the riches of the oceans will not simply be carved up by the rich nations, for the rich nations, but will be primarily used to the benefit of those most in need.

The fisheries aspect of this discussion is considerably more difficult because we have suffered from decades of global mismanagement. The economic imperative of grabbing the most fish, the quickest, has been the unwritten law of the sea. Those nations who saw the danger of eliminating a renewable resource made sincere efforts at conservation. However, these efforts were often futile, frustrated by the international anarchy that characterized the fishing conduct on the oceans. Bilateral and regional negotiations have, at best, simply slowed the rapid depletion of world fish resources.

As a result of this global mismanagement, many nations sought solution in the concept of a 200 mile zone. It was first proposed by the underdeveloped world at the first law of the sea meetings. Their proposal for a 200 mile economic zone was at first strongly resisted by most of the industrialized nations, especially the United States, the Soviet Union, many European countries and Japan.

However, at the Conference in Caracas during the summer of 1974, the United States and other industrialized nations were persuaded to accept the idea of a 200 mile economic zone. Forces in the senate in order to "lock-in" the United States government to this concept, secured passage in the fall of 1974 of a bill asserting a 200 mile economic zone.

The wisdom of such a strategy was vindicated in the Spring of 1975 at the meeting of the Law of the Sea Conference in Geneva. The concept of a 200 mile zone became the assumed point of departure in our fisheries negotiations.

The great success of the Conference itself was in producing a single negotiating text for the Law of the Sea. This text, which includes an article giving the host country complete control over their anadromous fish stocks, represents an 80% consensus on the issues before the Conference, a consensus which has brought us preciously close to a final international agreement.

However, there still remains among the proponents great confusion as to the proper vehicle—national or international sovereignty—with which to implement the 200 mile concept and protect the ocean fish resources. A lack of faith in the deliberations and a lack of appreciation of the success already realized by the conference fuels this confusion. In fisheries, no less than in mining, a real solution can only be found through international action.

Unfortunately, this confusion has caused the Congress to focus on national action rather than on the remaining issues to be resolved at the Law of the Sea Conference, most notably deep-sea mining. In going on record for the 200 mile concept, the House of Representatives may further pressure international negotiators to get a sound oceans' treaty. However if the Senate acts again, transforming the house bill into law, we will have charted our course toward unilateralism, undermining the Conference, undermining a real solution to our fisheries problem and undermining any real hope of world sovereignty.

There are many liabilities associated with unilateral action. It most certainly will result in many disputes between the United States and nations fishing off our coasts who would challenge our action as contrary to international law. It will also create a whole host of new international disputes as other nations react and take similar unilateral steps threatening a wide range of U.S. interests.

In Alaska with respect to fisheries, foreign vessels would probably increase their catch of salmon as other species within the 200 mile limit are denied them. In fact a unilateral 200 mile limit would not protect more than 60 percent of our economic fishery. We would have control of pollock, flounder and other species primarily fished by other nations. This would force us to set in motion a whole new wave of bilateral negotiations deflecting our negotiators, and scientists attention from the law of the sea to this new difficulty. We would now have to focus our attention on swapping the fish we control for the fish that is beyond our control or we would have to change the economic nature of our fishery in Alaska. Eighty percent of our salmon are beyond 200 miles at any one time, and as such are hostage to any unilateral action we might take.

Obviously enforcement costs would skyrocket as foreign interests would intensify their efforts to get as much fish as possible before being driven from the 200 mile zone.

Commercial warfare would result as trade and import barriers are created by many countries in the hope of enhancing the economic benefits of their fishery.

All of this would delay, frustrate and probably doom any chance of completing a sound and workable international agreement.

It is a certainty that the underdeveloped nations will follow our lead and declare a 200 mile zone, particularly since they origi-

nated the concept as a means of protecting themselves from industrialized nations. Since agreement by these nations is the key to the resolution of remaining law of the sea issues, our action would remove any incentive they would have to negotiate a final treaty since they will have secured their long-sought goal of the 200 mile zone. This action would additionally guarantee a delay—who knows how long—of final Law of the Sea agreement.

Canadian Prime Minister Trudeau noted recently that "Canadians at large should realize that we have very large stakes indeed in the Law of the Sea agreement and we would be fools to give up those stakes by action that would be purely a temporary, paper success." In this light, we in the United States should understand "the current negotiations may thus be the world's last chance." As Secretary Kissinger warned: "Unilateral claims to fishing zones and territorial seas extending from 50 to 200 miles have already resulted in seizures of fishing vessels and constant disputes over rights to ocean space. The breakdown of the current negotiations, a failure to real a legal consensus, will lead to unrestrained military and commercial rivalry and mounting political turmoil."

Unilateral action is not only a threat to successful international action, it is clearly counter-productive to that goal. Congressional action is a tactic to pressure other nations to act on a solution. It is not the solution. We should clearly make this distinction.

I deeply believe that a Law of the Sea Treaty rather than any unilateral action is more advantageous to all our interests and particularly those fishing interests in my home—Alaska.

An international oceans treaty promises to secure agreement on the whole range of maritime issues. This linkage between the various issues provides the single greatest impetus and incentive for nations to reach agreement and is primarily responsible for the increasing international recognition that such agreement is vitally necessary.

There is very little appreciation that with respect to fisheries, the gains in negotiations are already immense. There is a broad consensus on the fisheries text which not only declares a 200 mile economic zone, but also secures host country control over anadromous species of fish, based on the rule of maximum sustainable yield. This conservation and full utilization principle is right in line with our nation's interests and poses no problem in its interpretation or practice.

Host countries will also have the power to license foreign fishing vessels within the 200 mile zone if they choose not to harvest the fish themselves. On the other hand, if host nations want to expand their fleets and harvest fish they customarily have not, they can take all the fish up to the maximum sustainable yield.

Similarly we would control our salmon stocks and other anadromous fish species wherever they are in the oceans, with the right to expand the catch up to the maximum sustainable yield.

A key benefit to an International Law of the Sea Agreement, not realizable through unilateral action, is the rehabilitation of our fish stocks. An international agreement will permit serious efforts at rebuilding our depleted and regionally extinct fish stocks. It makes little sense to make the needed capital investments for stocking our streams with salmon when foreign fishing activity will not permit them to return for harvest or propagation. An international agreement would assure us the benefits of such investment. In fact, extinct salmon runs on the east coast could be reestablished.

Probably the most important benefit from an international agreement is the legal framework that will be set up to handle all maritime disputes, including fisheries questions. All disputes would be mandatorily settled before an oceans court.

In considering an agreement with the great breadth of the Law of the Sea, it would be well to remember Thomas Jefferson's observation that, while the majority protects itself by its numbers, the minority can only protect itself by law.

The same Jeffersonian wisdom applies equally well to the underdeveloped world. The militarily weak and the economically poor can only be protected by law. In a world where the oceans are ruled by no law, they will be governed by the powerful. In a world without an oceans' charter, they will be governed by the world's wealthy.

I well understand the suspicions of the poor nations—history has not been kind to them. Similarly I understand the frustration of my own constituency—for decades of bilateral efforts have only been witness to the continued rape of our fish resources.

Yet the greatest irony of all would be for us to vent our frustrations and suspicions by impeding, if not blocking, international efforts to conclude a law for the seas, an agreement that when concluded will secure for all minorities, the weak and the poor, the economic and political justice under law they could never secure before.

It is important to keep in mind that the Law of the Sea Conference is the largest convocation in the history of humankind and that the problems at issue are the most complex ever to be dealt with. In comparison to many Congressional legislative efforts, the conference is preceding at a rapid pace.

This conference can be successfully concluded next year if sufficient pressure and efforts are put forward by all parties. I hope my country will not only continue its fine efforts, but that the President and Secretary of State of the United States will make it their highest priority and that Congress will hold off unilateral action pending the outcome of another years' deliberations. Hopefully, other nations, recognizing the great benefits to the human race of both international and cooperative sovereignty over our oceans, will join in making the completion of the negotiations their first priority and making 1976 the year of the seas.

CUTTING BACK ON SPENDING IS NOT ALL THAT PREPOSTEROUS

Mr. HUGH SCOTT. Mr. President, the lead editorial in today's Philadelphia Inquirer thoughtfully considers the President's proposal to cut taxes and curb Federal spending. I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CUTTING BACK ON SPENDING ISN'T ALL THAT "PREPOSTEROUS"

The way the Democrats in Congress are sputtering, one might think that President Ford had asked them to outlaw motherhood, the flag and apple pie in a single sweeping stroke. Basically, however, all he has really asked is that they join him in facing up to the simple truth that if the federal government is to cut taxes it must also curb its runaway spending.

Such a notion, granted, is offensive to legislators still faithful to the advice the famous Sen. Robert LaFollette gave a newcomer half a century ago: "I make it a rule never to vote for a tax measure or against an appropriation."

Even so, it is *not* "totally preposterous," as Chairman Al Ullman of the House Ways and Means Committee protests.

With a national election year coming up, there are obvious political overtones in the President's proposal. But there is nothing wrong with that, for what Mr. Ford has done is to raise a legitimate and fundamental political issue that ought to be the centerpiece of the 1976 campaign. He defines it this way:

"One big spending program after another has been piled on the federal pyramid, taking a larger share of your personal income and creating record budget deficits and inflation . . . These excesses have played a major role in driving up prices, driving up interest rates and holding down jobs . . . As we emerge from this recession, we face the basic choice: Shall we continue these patterns in Washington or shall we set off in a new direction?"

For his part, the President has long since opted for a new direction. The alternative, he has warned, is a growth in federal spending—particularly in the spiraling transfer payments—that could lead to a situation where half the people in the country are being taxed to support the other half.

A flurry of recent reports has suggested that many Democrats are also coming around to the idea that some of the Great Society programs not only have not worked but have gotten out of hand and need to be eliminated or overhauled.

That is essentially what Mr. Ford is proposing when he asks that Congress set a budget ceiling of $395 billion for next year as a prerequisite to a $28 billion tax cut.

The Democrats' response that they can make no such agreement without seeing the President's budget is not persuasive. He has pledged to submit a budget within that figure; his earlier proposals and his vetoes give a good idea of where he thinks cuts can be made; and Congress itself will have the last word in deciding how the $395 billion is to be allocated.

That admittedly will involve some politically unpalatable choices and more courage than Congress has shown thus far in cutting back on all those goodies flowing from Washington.

But if those goodies are to continue to flow out, then the money must continue to flow in. The American people can't have more government spending and lower taxes. A choice must be made. The President has made his. Now we shall see where Congress stands.

IF ARIZONA CAN DO IT . . .

Mr. FANNIN. Mr. President, recently several of my colleagues and I had the opportunity to testify before the Judiciary Subcommittee on Constitutional Amendments on behalf of Senate Joint Resolution 55, a proposed amendment to the Constitution of the United States relative to balancing the Federal budget. Further hearings were held on October 7, 1975.

It is encouraging that numerous States and private organizations have supported this measure which is designed to bring fiscal responsibility and rational thinking to Washington. Having served almost two terms in the Senate, it is my belief that a constitutional amendment is required to assure a balanced budget. It is simply too easy for Congress, and the Executive, to spend the taxpayers' money without being held accountable, unlike State and local government officials who are closer to the people.

Mr. President, the Arizona Republic recently published an editorial on the subject of Federal fiscal responsibility entitled, "If Arizona Can Do It . . . ." This editorial describes both the efforts

being taken in support of Senate Joint Resolution 55 on the State and local level as well as an excellent discussion of the need for adoption of their proposed constitutional amendment. I ask unanimous consent that the Arizona Republic editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

IF ARIZONA CAN DO IT . . .

Perhaps they're simply cries in the dark, doomed to fall on deaf ears.

Yet, more and more groups across the land—from state legislatures down to small-town chambers of commerce—are hearing the drumbeat, and demanding Congress halt wild spending.

The Georgia Chamber of Commerce started it last year with a resolution calling on Congress for a constitutional amendment limiting federal expenditures to income. And no more.

Since then, 32 states have adopted resolutions or memorials urging federal fiscal responsibility.

The grassroots movement to outlaw reckless deficit spending is inching toward the halls of Congress. Sen. Carl Curtis, R-Neb., has proposed a constitutional amendment, on which hearings began yesterday before the Senate Judiciary Committee. Arizona Sen. Paul Fannin is one of the supporting witnesses.

Of the nation's deficit spending policies, Dr. James Buchanan, an economist, has prepared a report for Sen. Curtis which concludes that "history is replete with instances of societies that explode and collapse due to inflationary fires fueled by government deficits."

Arizona, like a handful of other cautious states, is expressly forbidden in its own state constitution from deficit financing.

The beauty of this is that either government lives within existing means, or its elected representatives must raise taxes and then explain it at the next election.

In Washington, on the other hand, elected representatives have successfully created the illusion—through the opaque facade of bureaucracy—that every time it appropriates money, or creates a new agency, the average taxpayer will not pay. Someone else will. Like Big Business or Those Millionaires.

All of which is nonsense.

Congress ought to start leveling with the people. The federal deficit this year will be close to $60 billion, money which will have to be borrowed and on which interest must be paid.

The taxpayer does not have a ready measurement of his elected federal representatives' performance with money, so long as congressmen can hide their excessive spending by simply borrowing more and postponing the final payment by the taxpayer.

But if Congress would simply decide that it will not spend beyond what the government takes in then those fancy programs with high costs now being thoughtlessly tacked onto bureaucracy either will be foresaken, or congressmen will have to vote individually to increase taxes.

Ideally, any tax increases should be made on personal income, so taxpayers immediately would feel a pinch in take-home pay and thus demand a halt to spending. Diffusing the pain through excise or corporate taxes simply masks the final result.

CLEANING UP THE TRASH AT FEDERAL FACILITIES

Mr. HUGH SCOTT. Mr. President, on Saturday last, the Washington Post published an excellent editorial entitled "Cleaning Up Trash at Federal Facilities." Because the problem of excess refuse is one which ought to be of concern to us all, I ask unanimous consent that this worthwhile editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CLEANING UP THE TRASH AT FEDERAL FACILITIES

As a modest attempt to do something about the blight and waste of throwaway bottles and cans landing on its property, the federal government has come up with a most sensible housekeeping proposal: that all carbonated beverage containers sold at federal installations carry a deposit. Instead of abetting the sales of expensive packaging that must be tossed out, the administration would encourage the conservation of natural resources in its own back yard, where countless tons of metal and glass are scattered each year. The proposal, which would convert all national parks, military installations and other government facilities to a system of returnable containers, comes in the form of guidelines developed by the Environmental Protection Agency.

Though the effect of the guidelines would not be felt for some years, the proposal already has drawn the predictable and well-financed opposition of bottle and can manufacturers and other industry groups lobbying hard to preserve the throwaway system. For several months, these groups have been arguing that EPA has no authority to issue the guidelines. But in August, Wallace H. Johnson, then assistant attorney general in the land and natural resources division of the Justice Department, stated that EPA's action "rests upon firm legal ground" under authority established in the Solid Waste Disposal Act. This act requires the EPA administrator to publish "guidelines for solid waste recovery, collection, separation and disposal systems."

The most logical system, of course, is one that encourages solid waste recovery at the source. As administration supporters of the guidelines note, a deposit on containers does just that. Moreover, government officials now recognize that vast amounts of unnecessary energy are spent in the sale, recovery and recycling of throwaways. Consumers, too, are discovering that the savings can be considerable when beverages are readily available in returnable containers. Indeed, the EPA proposal has received support from representatives of the National League of Cities-U.S. Conference of Mayors; spokesmen of the National Governors Conference; the National Association of Counties; the League of Women Voters; conservation groups and even brewing companies, including Coors and Falstaff.

At this point, the proposal awaits publication in the Federal Register, to allow public comment. After that, the guidelines still wouldn't go into effect until next year, and agencies would have until 1977 to draw up plans for a phased compliance. In view of these provisions for gradual introduction of the new rules, the formal initiation of this constructive move by the Ford administration should begin as soon as possible.

FREEDOM OF INFORMATION AND THE PRIVACY ACT

Mr. KENNEDY. Mr. President, last fall Congress enacted two bills designed to have a significant impact on the Federal Government's handling of information: the Privacy Act, and the Freedom of Information Amendments of 1974. The Privacy Act created a right of access for individuals to their own files, a right to correct mistakes contained in those files, and a responsibility on the part of the Government to protect personal information from misuse and disclosure which constituted an invasion of the privacy of the subject of that information. The Freedom of Information Act amendments speeded access by the public to Government records, strengthened the rights of the public to obtain disclosure of public information, and limited the scope of the Government's authority to withhold certain kinds of information.

Both of these laws serve important and coordinate purposes. They help the public obtain ready access to information which should be available; and they guard against disclosure of information which should not be made public. These laws are not conflicting in intent or purpose. The Freedom of Information Act had always recognized the Government's authority to withhold information whose disclosure would constitute a clearly unwarranted invasion of personal privacy. And the Privacy Act was drafted to avoid interference with the free flow of information to the public required to be released by the Freedom of Information Act. They were enacted but a few weeks apart by a Congress dedicated both to an opening of the Federal Government—so recently tainted by the effects of the Watergate scandal—and to a protecting of the rights to personal privacy of each citizen who became the subject of a government file.

Nonetheless, with the need to enact the Freedom of Information Act amendments over the veto of President Ford, and with the need to complete work on the Privacy Act in the closing days of the 93d Congress, the two laws do not appear to mesh as easily as might have been desired. Two different committees in the Senate worked on the different bills; and while the Office of Management and Budget was pressing hard for enactment of privacy legislation, the Justice Department was pressing equally hard for defeat of Freedom of Information legislation.

On September 27 the Privacy Act became effective, and it is thus now necessary for agencies to determine how they will treat problems arising where that law and the Freedom of Information Act interface. In resolving these problems, the Justice Department and the Office of Management and Budget play central roles. For the Information Act recognizes that Justice must play a leadership role in insuring agency implementation of that act, while the Privacy Act places OMB in the leadership position. The Justice Department's legal advice is still crucial under the Privacy Act, since Justice must defend any litigation arising under that law.

Mr. President, the Justice Department got off to a rather disquieting start when on July 30 it sent out a letter advising the general counsel of one agency that the Privacy Act impliedly repealed certain disclosure requirements of the Freedom of Information Act. In the Department's view, according to the letter signed by a Deputy Assistant Attorney General, the Privacy Act was "exclusively

applicable to all records in which an individual requests records from a system of records covered by" that act. This meant that an agency decision to exempt systems of records from public access under the Privacy Act also exempted them from disclosure under the Freedom of Information Act—a conclusion unsupported by the language of the laws or the intent of Congress, in my view. I will insert this letter in the RECORD at the end of my remarks as exhibit 1.

I wrote the Attorney General requesting his review of this matter, suggesting that the preliminary conclusion by Justice "could prove pernicious and destructive if allowed to become the official Justice Department interpretation of the law." (See exhibit 2.) I pointed out that the logical implications of the earlier position would mean a third party would have more rights than the subject of a file, and that the language of the Privacy Act appeared clearly to recognize the continued application of the full force of the Freedom of Information Act wherever the Privacy Act did not apply. I observed:

It appears clearly intended that access under the Privacy Act is to be complete, and not subject to FOIA exemptions, where the Privacy Act grants access. But where the Privacy Act does not grant access, the FOIA—and its exemptions—apply.

I subsequently sent the Attorney General a Library of Congress analysis I had requested, which examined in great detail the Department's initial conclusion on this issue. That analysis concluded, as I had, that the Privacy Act is not an exclusive means of gaining access to personal information contained in a system of records:

It flies in the face of the whole legislative effort in this area to construe the Privacy Act as a backhanded method to limit individual access to records while at the same time preserving potentially greater access rights to third parties.

The Library of Congress study is included below as exhibit 3.

Last week I received a response to my letter, from Deputy Attorney General Harold Tyler. (Exhibit 4.) Mr. Tyler indicated that he and others at Justice shared my concern, and he proposed that an amendment to the Department's privacy regulations would respond adequately to that concern. They respond, but clearly not adequately.

Mr. President, the Justice Department, in its proposed new regulation, meets the most important element of my objections: it provides as a practical matter that records exempted from application of the Privacy Act will nevertheless be available to a requester if he would otherwise have been entitled to them under the Freedom of Information Act. "To the extent that the individual seeks access to records from systems of records which have been exempted from the provisions of the Privacy Act," reads section 16.57 (b) of the proposed new regulation,

The individual shall receive, in addition to access to those records he is entitled to receive under the Privacy Act and as a matter of discretion . . . , access to all records within the scope of his request to which he would have been entitled under the Freedom of Information Act . . . but for the enactment of the Privacy Act and the exemption of the pertinent systems of records pursuant thereto.

This resolution of the issue effectively guarantees, at least temporarily, the substantive access rights provided the public under the Freedom of Information Act. But that is precisely what the law requires. The Department's action therefore falls short, in three ways, of complying with the letter and spirit of the Freedom of Information Act.

First, Justice has decided to grant access consistent with the Freedom of Information Act only as a matter of agency discretion—as a matter of grace. It seems thereby to try to duck resolution of the issue squarely as being mandated by the law. The Information Act in 1966 was passed with a primary objective of removing Government secrecy from the realm of official discretion for the most part; the only information which could be withheld was to be that "specifically" authorized by the ace to be withheld. The law says:

This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated.

Courts subsequently held that they had no discretion to allow the withholding of information required to be disclosed by the act, even under their traditional equitable powers. But now the Justice Department, though agreeing that the Privacy Act does not curtail the public's rights under the Freedom of Information Act, says that it is carrying out this conclusion "at the sole discretion of the Deputy Attorney General." Under this approach the next Deputy Attorney General might change his mind.

Second, because of its resolution of this issue as a matter of grace rather than law, the Justice Department has abrogated its general responsibilities as lawyer for the executive branches and its specific duty under the Information Act to "encourage agency compliance with" the act. It has now told another agency, last July, that the agency can refuse access required by the Freedom of Information Act, though at the same time it is saying that the Department itself would never do such a thing. While it may be hoped that the Office of Management and Budget will live up to its role in guiding the agencies on their duties under the law, I would urge Justice itself to provide more persuasive guidance to the agencies. After all, the Justice Department will be defending those agencies in court, and I am all too confident it will lose its case in defending any agency that chooses—in exercising its discretion—to take what Justice leaves open as an alternative route for handing information requests.

Third, the Department has chosen to handle requests under privacy procedures, though it recognizes the need to apply Freedom of Information substantive standards. This deprives the requester of a timely response—within 10 working days—and other procedural benefits conferred by the Freedom of Information Act. I am well aware of the more direct conflicts between the two laws on questions of procedure. But it seems to me that where records have been exempted from disclosure under the Privacy Act, but remain subject to mandatory disclosure under the Freedom of Information Act, the procedures of the latter law should govern.

Mr. President, there has already been substantial litigation under the Freedom of Information Act. Over the past few weeks I have placed in the RECORD lengthy lists of cases pending and decided under that act. I think that agencies must do all that they can to avoid litigation, and I would not encourage the public to resort to the courts where patience and perseverance can bring results at the agency level. So while I believe the Justice Department has reached the right results in deciding to release information concurrently under the Privacy and Information Acts, the manner in which it has done so borders on the irresponsible—and it is bound to cause additional litigation involving the hundreds of other agencies of government who may be going their own way.

The Privacy Act has its purposes and objectives. The Freedom of Information Act also has its own. The two sets of purposes and objectives are entirely consistent and complementary. It is the responsibility of the agencies to work out procedures which are likewise. For Congress is committed to a responsible, accountable, and open government, as well as to protection of personal privacy by the Government. The Freedom of Information Act and the Privacy Act strike the balance. It is up to the Government agencies who administer those laws to maintain it.

I ask unanimous consent that the documents referred to above be printed in the RECORD.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

EXHIBIT 1

JULY 30, 1975.

MEADE WHITAKER, Esq.,
Chief Counsel, Internal Revenue Service, Washington, D.C.

DEAR MR. WHITAKER: In a letter dated April 14, 1975, Harold T. Flanagan, Director of your Disclosure Division, requested our views as to whether the Privacy Act of 1974, P.L. 93-579, is the exclusive avenue available to an individual who seeks government records about himself, or whether the Freedom of Information Act would also be available for this purpose.

Neither the literal language of the two Acts nor their legislative histories provide a clear answer to this question. The Freedom of Information Act provides that government records are available to "any person" who requests them unless they fit into one of nine exempt categories, in which case the agency may, but need not, refuse disclosure. The Privacy Act authorizes "an individual" to request records pertaining to himself and seek correction of those records, subject to two general and seven specific exemptions. The Freedom of Information Act, having been passed and amended first, makes no reference to the Privacy Act. The Privacy Act makes only two direct references to the Freedom of Information Act. New section 5 U.S.C. 552a(b)(2) permits disclosure of records about an individual without his prior consent if disclosure would be *required* by the Freedom of Information Act. Subsection

(q) of the same section specifies that an agency may not use a Freedom of Information Act exemption to deny an individual access to files about him that would be available under the Privacy Act. No mention is made of the possibility that an individual might seek records under both Acts.

It should be noted that an earlier version of the privacy bills did address this question. Section 205(b) of H.R. 16373, as it passed the Senate on November 22, 1974, specified:

"Nothing in this Act shall be construed to permit the withholding of any personal information which is otherwise required to be disclosed by law or any regulation thereunder."

This language would have assured that information available under the Freedom of Information Act would continue to be available, to the individual as well as to third parties, despite any broader exemption in the Privacy Act. The omission of this language from the final enactment suggests that Congress ultimately decided that the Privacy Act exemptions should govern exclusively, although the omission is not explained in the legislative history of the version that finally passed.

Since no clear reason is given for the omission of this language in the legislative history, it might be argued that the two Acts were nevertheless intended to provide alternate or duplicate remedies for an individual who seeks access to records about himself. In our view, however, a reading of the two Acts as a whole and consideration of their practical application leads to a contrary conclusion, namely, that the Privacy Act is the exclusive remedy for an individual who seeks records about himself contained in a system of records covered by the Privacy Act.

ALTERNATIVE APPLICATION

There would be no difficulty in harmonizing application of the two Acts to the same request if the effect of the Privacy Act were merely to expand access which the FOI Act already provides. Then one might reasonably assert that a requester was free to proceed under the older legislation—but could obtain still more by proceeding under the newer. It is true that in most respects the Privacy Act expands access by the person seeking his own records; but in several significant respects, the Privacy Act also permits or requires limitations upon access, beyond what the FOI Act would authorize.

For example, under the FOI Act an Agency could provide personal files to a person claiming to be their subject without requiring him to produce solid proof of his identity; subsection (f)(2) of the Privacy Act, however, authorizes the establishment of verification procedures. Similarly, under the FOI Act an agency would not be able to withhold medical information from its subject merely because it determined that disclosure would be harmful to him; whereas subsection (f)(3) of the Privacy Act permits an agency to restrict certain disclosures to the requesting subject's physician rather than making them to the subject himself. Finally, mention might be made of the Privacy Act's prohibition on access to information compiled in anticipation of a civil proceeding. Subsection (d)(5). It is entirely implausible that such substantial protections as these were intended only to apply to the incremental access which the Privacy Act provides beyond that of the FOI Act—so that they could be entirely avoided if the FOI Act alone were the basis of the request. It seems clear that they were enacted as desirable provisions in and of themselves, rather than as mere limitations upon the relatively small broadening of access achieved by the Privacy Act. If they are to be given such independent effect, they must be held applicable to all requests by file subjects and not just those citing the Privacy Act rather than the FOI Act.

Another substantial obstacle to the theory that the FOI Act and the Privacy Act afford alternate forms of procedures is the fact that neither Act requires the requester to identify the statutory provisions under which his request is made—and in fact many (if not most) current FOI requests do not contain such identification. Without specification, it would be impossible to determine which Act a particular request relied upon; and it is utterly implausible that Congress intended substantial effects to attach not merely to a Code citation, but to an executive or judicial surmise concerning which citation the requester would have used if he had used one.

CONCURRENT APPLICATION

Of course the foregoing objections could be overcome if the Privacy Act were to be considered not merely an alternative to the FOI Act but a supplement to it—that is, if both the FOI Act and the Privacy Act were to be considered applicable simultaneously to all requests by file subjects. Other provisions make it clear, however, that the two acts simply cannot be read entirely together.

For example, the Privacy Act, while prescribing time limits for the correction of records, prescribes no limits on the agency decision to grant or deny access to records. The FOI Act, on the other hand, sets rigid limits on the decision to grant or deny access.[1] Furthermore, the FOI Act provides that no exhaustion of administrative remedies is required if its time limits are not met; the Privacy Act, being silent on the subject, presumably requires exhaustion of administrative remedies.[2] The FOI Act requires notice, upon denial of access to records, that the individual may appeal that decision within the agency. The Privacy Act requires neither the internal appeal itself nor any notice of further rights after denial.[3] A party denied records under the FOI Act may obtain injunctive relief and costs and attorneys fees; no specific statute of limitations is provided. Similar relief is available under the Privacy Act but there is a two-year statute of limitations.[4]

Of course one might maintain that the two Acts were meant to be cumulative where not inconsistent, but where inconsistent the provisions of the later Act would prevail. Such an interpretation is cast into doubt by subsection (q) of the Privacy Act which specifically states that the FOI Act exemptions from disclosure cannot be used to deny an individual access to files about himself. There would be no need for such a provision if all inconsistencies between the two acts were to be resolved in favor of the later.[5]

Attempting to read the two acts as cumulative, at least in part, creates a scheme of enormous complexity. If they are to be read as complementary, except where inconsistent, it becomes necessary to determine when that inconsistency exists. For example, is the Privacy Act provision permitting special disclosure restrictions on medical records—limiting disclosure to a physician—consistent with the FOI provision on disclosure? Does 5 U.S.C. 552a(q) mean not only that the (b)(5) exemption of FOI cannot be used as a basis for denying records but also that the (b)(3) exemption for statutory restrictions on disclosure is unavailable?[6] Does the fact that the Privacy Act does not require an administrative appeal from a denial of access overrule the FOI requirement that such an appeal be provided and notice of its availability be given the requester? Reading the acts cumulatively, when would the administrative remedies be exhausted for purposes of seeking judicial review? If records are provided to the individual, what fees may be charged?[7]

Courts and administrators should not be cast upon this sea of uncertainty without a clear expression of congressional intent to that effect. That does not exist in the present case. To the contrary, in our view the Privacy Act bears every evidence of having been regarded as a self-contained unit, embodying all requirements that Congress intended from definitions to provisions of judicial review. It is, in our view, intended to be exclusively applicable to all cases in which an individual requests records from a system of records covered by the Privacy Act, after a date on which it comes into effect.

Sincerely,

MARY C. LAWTON,
Deputy Assistant Attorney General, Office of Legal Counsel.

FOOTNOTES

[1] Compare 5 U.S.C. 552a(d)(1) with 5 U.S.C. 552(a)(6).

[2] Compare 5 U.S.C. 552(a)(6)(C) with 5 U.S.C. 552a(d)(1).

[3] Compare 5 U.S.C. 552(a)(6)(A)(i) with 5 U.S.C. 552a(d)(1).

[4] Compare 5 U.S.C. 552(a)(4) with 5 U.S.C. 552a(g)(5).

[5] Of course, the provision is also somewhat superfluous under the theory that the Privacy Act is exclusive, but it seems to be less so. If an intricate system were being established, whereby some provisions of the later Act would supersede those of the earlier, but others would not, one would expect more than a single expression of the practical operation of such supersedure. Assuming, however, that the entire Privacy Act was regarded as exclusive, subsection (q) can be seen as a somewhat superfluous but understandable affirmation of exclusivity in a particularly important area.

[6] Under the Veterans Administration Statute, 38 U.S.C. 3301(1) records are not available to the veteran, if disclosure would be injurious to his physical or mental health. Under FOI, such records would be exempt from disclosure under 5 U.S.C. 552(b)(3)—records exempt by statute. What is their availability under Privacy Act?

[7] The FOI Act permits fees to be charged for the costs of both search and duplication. 5 U.S.C. 55(a)(4). Under the Privacy Act only duplication fees "excluding search" may be charged. 552a(f)(5).

EXHIBIT 2

U.S. SENATE,
Washington, D.C., August 26, 1975.

Hon. EDWARD H. LEVI,
Attorney General, Department of Justice, Constitution Avenue between Ninth and Tenth Streets, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: The Office of Management and Budget has recently circulated to all federal agencies a package of materials characterized as "helpful to your efforts to implement the Privacy Act of 1974." In this package, however, is a letter which clearly does *not* help agency efforts to implement the Privacy Act. This letter, written by Deputy Assistant Attorney General Mary Lawton, could prove pernicious and destructive if allowed to become the official Justice Department interpretation of the law.

Under the Freedom of Information Act the Department of Justice has a special leadership role in encouraging "agency compliance" with the FOIA. (5 U.S.C. § 552(d).) Miss Lawton's letter reflects a perversion of that role. I am thus appealing to you to review this matter and to issue guidance consistent with the congressional intent in both the Privacy and Freedom of Information laws.

The question raised is whether the Privacy Act of 1974 is the exclusive avenue available to a person requesting government records about himself, or whether the Freedom of Information Act may be applicable to

Footnotes at end of article.

such request. The Freedom of Information Act and its 1974 Amendments were enacted prior to final passage of the Privacy Act and therefore contain no reference to any possible interplay or conflict between the two laws. And it is true that the Privacy Act does not clearly address all aspects of the interface between them. Yet, regardless of specific inconsistencies between the provisions of the two laws, it would be manifestly unreasonable to conclude that Congress intended in the Privacy Act to carve out large implied exceptions to the requirements of the Freedom of Information Act. Generally supporting this observation are the following points:

1. The Freedom of Information Act exempts from mandatory disclosure matters *"specifically* exempted from disclosure by statute." (5 U.S.C. §552(b)(3).) If the Privacy Act's exclusion of certain agencies or records does not "specfically" exempt them "from disclosure"—as opposed to merely exempting them from the application of certain Privacy Act provisions, then an exception to application of the FOIA's disclosure requirements cannot be sustained.

2. The Privacy Act was passed by Congress shortly after passage of the FOIA Amendments, which significantly strengthened disclosure requirements under the 1967 FOIA. (Further, the same House Committee—and Members—were responsible for managing both bills.) Implied repeal of statutory provisions are not generally favored: it would be especially unusual to conclude that Congress impliedly emasculated a public right in one bill that it had envigorated just a few weeks earlier.

3. Both House and Senate Reports on the Privacy Act refer with approval frequently to the FOIA. The final Privacy Act excepts from the disclosure limitations of section 552a(b) records required to be disclosed "under section 552 of this title" (the FOIA). It further provides in section 552a(q) that FOIA exemptions may not be invoked "to withhold from an individual any record which is otherwise accessible" to him under the Privacy Act. These clauses strongly imply that on the most basic questions—disclosure to a third party of government information about an individual, and disclosure to an individual of information about himself—Congress intended that FOIA and Privacy Act will be coordinated and applied consistently. (I should note that neither law requires its provisions to be invoked by reference. So it becomes even more important for the agencies themselves to initiate an integrated handling of requests under both.)

Miss Lawton's letter examines some of the procedural problems of applying the Privacy Act and FOIA alternatively or concurrently. She does not examine the more substantive problems of applying the Privacy Act exclusively:

1. Exclusive application of the Privacy Act would allow a blanket exemption from FOIA application for the entire CIA and FBI and for investigatory files in other agencies. Yet not only did Congress reject (both in 1966 and 1974) excluding the FBI and CIA from FOIA requirements, the FOIA Amendments expand public access, under carefully delineated guidelines, to investigatory and improperly classified documents. The Senate Judiciary Committee debated the question of applying the Act to the FBI and CIA. Much of the Senate floor debate was directed toward assessing the need for and implications of applying an amended seventh exemption (relating to investigatory files) to the FBI. And modification of the seventh exemption of the FOIA in Conference involved direct participation of the FBI with the staff of the managers. It is therefore unreasonable to conclude that, in view of the time and effort given moulding the FOIA to the unique problems of the FBI, Congress would have turned around and allowed that agency to be exempted completely from the Act without explicitly saying so.

2. One especially ludicrous result would ensue from treating the Privacy Act as exclusive as to covered records systems: a third party would be able to obtain more information from an investigatory file than the subject of that file himself.

For while the record could be exempt from access by the subject under the Privacy Act (sections 552a (j)–(k)), it would still be reachable under the FOIA. Moreover, if the requester obtained an affidavit from the subject, disclosure would not even constitute an "unwarranted invasion" of the subject's privacy (sections 552(b)(6)–(7)(c)). The Privacy Act's apparent exclusion (under this reading) could thus be simply circumvented by use of a straw-man.

I note that Miss Lawton concedes the possibility that the two Acts could be read "to be cumulative where not inconsistent" (page 4). She reasons, however, that if they were so read there would be no need for the Privacy Act to state that the FOIA exemptions "cannot be used to deny an individual access to files about himself." (Section 552a (q).) This is not only a superficial basis, on which to reject cumulative application of the two laws; it actually provides support for the opposite conclusion. The full clause reads:

"No agency shall rely on any exemption contained in section 552 of this title to withhold from an individual any record *which is otherwise accessible to such individual under the provisions of this section.*" (Emphasis added.)

It appears clearly intended that access under the Privacy Act is to be complete, and not subject to FOIA exemptions, where the Privacy Act grants access. But where the Privacy Act does not grant access, the FOIA—and its exemptions—apply.

This, it seems to me, provides a coherent and rational approach for integrating the two laws substantively. Any other would do injury to the congressional purpose and national policy underlying each Act.

Once this substantive compatibility is accepted, there nonetheless remain complex and challenging procedural issues involving the interaction of the two laws. These may be resolved more readily if the objectives of both laws—broad access, agency responsiveness, and effective judicial review—are used to guide their resolution. I and the staff of the Subcommittee on Administrative Practice and Procedure stand ready to assist you and your staff in developing a coherent procedural framework, for agency handling of information requests, that is faithful to the requirements of both the Privacy Act and the Freedom of Information Act.

If, after the effective date of the Privacy Act, the FBI, CIA, IRS, or other agency refuses to provide information covered by the Freedom of Information Act on the grounds that the information is in record systems exempted from application of the Privacy Act, and that the Privacy Act is exclusive in that regard, I believe that refusal will ultimately be found to be arbitrary and capricious by the courts. These issues should not, in any event, have to await litigation for their resolution.

Since the Privacy Act becomes effective next month, and agencies are presently actively planning to implement that Act, your opinion on this issue of exclusivity is critically needed as soon as possible. I will look forward to your response.

Sincerely,

EDWARD M. KENNEDY.

EXHIBIT 3

The Library of Congress, Congressional Research Service

Washington, D.C., September 8, 1975.

To: Senate Subcommittee on Administrative Practice & Procedure

From: American Law Division

Subject: Relationship of the Freedom of Information Act and the Privacy Act; Exclusivity of Remedies

This is in response to your request for a critical analysis of the Justice Department's position regarding the relationship of the Freedom of Information Act (5 U.S.C. 552) and the recently enacted Privacy Act (5 U.S.C. 552a). It is the Department's position, as stated in a July 30, 1975 letter from Deputy Assistant Attorney General Mary Lawton to the Chief Counsel, Internal Revenue Service, that the Privacy Act, after its effective date of September 27, 1975, is "the exclusive remedy for an individual who seeks records about himself contained in a system of records covered by the Privacy Act."

The Department's letter notes various provisions in the Privacy Act which limit access to an individual's files in arguing that the Privacy Act is not an alternative procedure to the Freedom of Information Act. Procedural variations between the two acts are pointed to as indicating "that the two acts simply cannot be read entirely together." Furthermore, according to the letter, "[a]ttempting to read the two acts as cumulative, at least in part, creates a scheme of enormous complexity." The letter concludes:

"Courts and administrators should not be cast upon this sea of uncertainty without a clear expression of congressional intent to that effect. That does not exist in the present case. To the contrary, in our view the Privacy Act bears every evidence of having been regarded as a self-contained unit, embodying all requirements that Congress intended, from definitions to provisions of judicial review. It is, in our view, intended to be exclusively applicable to all cases in which an individual requests records from a system of records covered by the Privacy Act, after the date on which it comes into effect."

The Privacy Act is a comprehensive law relating primarily to the safeguarding, management, compilation and dissemination of records maintained by the federal government on individuals and which are retrievable by the name of the individual or some other identifying particular assigned to the individual. See, 5 U.S.C. 552a(a)(5). The principal aim is the protection of the privacy of the individual by controlling the disclosure of records pertaining to him and assuring that files are maintained accurately, with the individual's knowledge, and for a proper purpose. Access by an individual to records pertaining to him is accorded under subsection d(1) of the Act and means are provided by which amendments and corrections of the records can be made. 5 U.S.C. 552a(d)(2). Exemptions from the access and modification provisions, as well as other provisions of the Act, are permitted the agencies. 5 U.S.C. 552(a)(j) and (k).

The Freedom of Information Act (FOIA), 5 U.S.C. 552, is a disclosure law. It provides, inter alia, that upon request for records by any person, agencies shall make such records available unless they fall within the terms of nine exemptions to the Act. 5 U.S.C. 552(b). The exemptions relate to the substance of the records and permit the withholding of such matters as classified material, interagency memoranda, investigatory files, personnel and medical records, and records specifically exempt from disclosure by statute.

An individual can request records pertaining to him under the terms of both acts. The Privacy Act specifically grants him ac-

Footnotes at end of article.

cess under 5 U.S.C. 552a(d)(1). An individual is clearly "any person" under the FOIA and so long as the records are "reasonably described" (5 U.S.C. 552(a)(3)(A)) he can seek such records pertaining to himself under that act. The question is whether the Privacy Act is the exclusive means of obtaining access to records pertaining to the individual requester when such records are contained in a system of records as defined in the Privacy Act.

The Privacy Act contains four references to the Freedom of Information Act, none of which resolve the question of exclusivity of remedies. Section (b)(2) prohibits disclosure of any individually identifiable record to any person or agency, without prior request by or consent of the individual concerned, unless disclosure would be "required under section 552 of this title." 5 U.S.C. 552a(b)(2). Disclosures under (b)(2) are also exempt from the requirement that such records be "accurate, complete, timely, and relevant for agency purposes" before they are disseminated to any person other than an agency. 5 U.S.C. 552a(e)(6). Among the specific exemptions in the Act (which permit agency heads to exempt certain systems of records from various provisions of the Act) are systems of records "subject to the provisions of section 552(b)(1) of this title." 5 U.S.C. 552a(k)(1). Finally, the Freedom of Information Act is mentioned in section (q) which prohibits an agency from relying on exemptions in the FOIA to withhold records from an individual otherwise accessible under the Privacy Act. 5 U.S.C. 552a(q).

The legislative history of the Privacy Act is similarly unilluminating on the question of the relationship of the remedies provided in both the Privacy Act and the FOIA.[2] Congress was not oblivious to the requirements of the Freedom of Information Act, however, during consideration of the Privacy Act. In fact, the President's veto of amendments to the FOIA designed to facilitate disclosure of records was overridden on the same day the Privacy Act was approved. The veto override vote in the House came within minutes of the debate and passage of the House version of the Privacy Act.

A version of the Privacy Act which passed the Senate on November 22, 1974 contained a provision that "[n]othing in this Act shall be construed to permit the withholding of any personal information which is otherwise required to be disclosed by law or any regulation thereunder." See, 120 Cong. Rec. S 19900 (daily ed. Nov. 22, 1974). This provision was omitted from the final version without explanation. Sections (b)(2) and (q) were instead added to the bill which became the Privacy Act. The Analysis of House and Senate Compromise Amendments to the Federal Privacy Act submitted in lieu of a conference report explains, somewhat ambiguously:

"The Senate bill reflected the position of an earlier draft of the House measure in Section 205(b) where it provided that nothing in the act shall be construed to permit the withholding of any personal information which is otherwise required to be disclosed by law or any regulation thereunder. This section was intended as specific recognition of the need to permit disclosure under the Freedom of Information Act.

"The compromise amendment would add an additional condition of disclosure to the House bill which prohibits disclosure without written request of an individual unless disclosure of the record would be pursuant to Section 552 of the Freedom of Information Act. This compromise is designed to preserve the status quo as interpreted by the courts regarding the disclosure of personal information under that section.

"A related amendment taken from the Senate bill would prohibit any agency from relying upon any exemption contained in Section 552 to withhold from an individual any record which is otherwise accessible to such individual under the provisions of this section." 120 Cong. Rec. S 21817 (daily ed., Dec. 17, 1974).

Thus, the intention of the compromise amendments described above was to "preserve the status quo as interpreted by the courts regarding the disclosure of personal information under [the FOIA]." Since the status quo included the possibility of individual access to his own file under the FOIA, it can hardly be persuasively argued that the omission of the language of the Senate-passed bill in the final version and its replacement with the compromise amendments "suggests that Congress ultimately decided that the Privacy Act exemptions should govern exclusively . . ."[3] While it is true that the effect of the compromise amendments differs from that of the Senate-passed bill, it is the intent of the Congress as an interpretative device which is important. Silence on the omission of a provision and an intent to preserve the status quo vis-a-vis the FOIA respecting other provisions can not be read to mean that Congress intended to replace the FOIA with the mechanisms of the Privacy Act regarding individual access to his own file.

Speculation over Congressional intent is risky, particularly in the case of a complex bill passed rather hurriedly at the end of a legislative session. Those who argue that the Privacy Act preempts the FOIA in cases of individuals seeking their own records contained in a system of records, however, must overcome some basic tenets of statutory interpretation.

The Justice Department argument is that the Privacy Act implicitly worked an amendment or repeal of the FOIA in that class of cases involving an individual seeking disclosure of a record pertaining to him contained in a system of records, as defined in the Act. However, repeals or amendments by implication are not favored. *Regional Rail Reorganization Act Cases*, 419 U.S. 102, 133 (1974); *Morton* v. *Mancari*, 417 U.S. 535, 550 (1974); *Posadas* v. *National City Bank*, 296 U.S. 497, 503 (1936). "In the absence of some affirmative showing of an intention to repeal, the only permissible justification for a repeal by implication is when the earlier and later statutes are irreconcilable." *Morton* v. *Mancari*, 417 U.S. 535, 550 (1974). The Supreme Court, in the *Regional Rail Reorganization Act Cases*, agreed with the District Courts' formulation of the rule:

"A new statute will not be read as wholly or even partially amending a prior one unless there exists a "positive repugnancy" between the provisions of the new and those of the old that cannot be reconciled. . . . Before holding that the result of the earlier consideration has been repealed or qualified, it is reasonable for a court to insist on the legislature's using language showing that it has made a considered determination to that end." 419 U.S. 102, 134 quoting 384 F. Supp. 895, 946 (Sp. Ct. 1974).

The question in the rail reorganization cases cited above was whether the Rail Act, with its own remedy and scheme of compensation, preempted the general Tucker Act remedy for unconstitutional takings of property. See, 419 U.S. 102, 126. The Supreme Court held that it did not.[4] As a general rule, remedial statutes are given a harmonious construction if possible and "the enactment of a new statutory remedy does not operate to repeal other statutory remedies, but the new remedy is construed as cumulative and to coexist with the existing methods of enforcement." Sutherland, *Statutory Construction* § 23.27 (4th ed. 1974); see, *Jones* v. *Mayer Co.*, 392 U.S. 409, 416 (1968); *Sullivan* v. *Litle Hunting Park*, 396 U.S. 229, 237 (1969).

The Department of Justice points to several differences in the access provisions of the Privacy Act as opposed to the FOIA as creating a "sea of uncertainty" and evincing an intent on the part of Congress to replace the FOIA remedy with the Privacy Act remedy, "a self-contained unit, embodying all requirements that Congress intended, from definitions to provisions of judicial review." As noted above, it is difficult to argue that Congress intended such a drastic remedial modification without saying a word about it and on the same day it overwhelmingly overrode a Presidential veto of a strengthened version of the very act it is now argued was modified. Furthermore, an examination of the "inconsistencies" discussed in the Department's letter does not demonstrate the degree of irreconcilability and "repugnancy" necessary on which to base a conclusion of qualification or repeal by implication. See, Sutherland, supra § 23.10; *Posadas* v. *National City Bank*, 296 U.S. 497, 504 (1936); *Regional Rail Reorganization Act Cases*, 419 U.S. 102, 134.

The Department's letter mentions three provisions of the Privacy Act which serve to *limit* access to information and argues that such limitations, contained as they are in the newer statute, preclude alternative use of the older FOIA. However, exemptions or limitations contained in later remedial statutes do not necessarily evidence an intent to occupy the field to the exclusion of earlier remedial statutes on the same subject. See, *Jones* v. *Mayer Co.*, 392 U.S. 409, 416 (1968);[5] *Sullivan* v. *Little Hunting Park*, 396 U.S. 229 (1969).[6] Furthermore, administrative interpretations of two of the three provisions result in no incompatibility with the FOIA.

For instance, the Department's letter notes that agencies may impose identity verification requirements on individuals seeking access to their records under the Privacy Act. 5 U.S.C. 552a(f)(2). There is no similar requirement under FOIA. However, OMB has recommended regarding (f)(2) verification that the "requirements pertaining to verification of identity contained in subsection (f)(1) [notification of an individual that a record pertaining to him exists], above, should also be noted." OMB Guidelines 28967. Subsection (f)(1) verification procedures "may only be imposed when the fact of the existence of a record would not be required to be disclosed under the Freedom of Information Act (5 U.S.C. 552)." OMB Guidelines 28967; see OMB Guidelines 28964.

Thus, an effort is made to mesh the two acts. Furthermore, as a practical matter, verification procedures are likely to be employed in FOIA requests for such individually identifiable records. The disclosure of a record to someone other than the subject of that record may "constitute a clearly unwarranted invasion of personal privacy" (5 U.S.C. 552(b)(6)), while disclosure to the individual himself may not. Thus, some verification procedure is necessary to determine the applicability of the FOIA exemption. See also, 5 U.S.C. 552(b)(7)(C).[7]

The Department's letter also points to the supposed conflict between the FOIA and subsection (f)(3) of the Privacy Act which, in its view, "permits an agency to restrict certain disclosures to the requesting subject's physician rather than making them to the subject himself."[8] OMB does not seem to take such an either/or position nor do the terms of the Act reflect such a position. Subsection (f)(3) does permit special procedures "if deemed necessary", but these special procedures are for "the disclosure *to an individual* of medical records." (Emphasis supplied). The OMB Guidelines similarly provide:

"As written, the Act provides that individuals have an unqualified right of access

---

Footnotes at end of article.

to records pertaining to them (with certain exceptions specified in subsections (j) and (k), below, but that the *process* by which individuals are granted access to medical records may, at the discretion of the agency, be modified to prevent harm to the individual." OMB Guidelines 28967 (Emphasis added).

Finally, the Department views subsection (d)(5) as a limitation making alternative application of the Privacy Act and the FOIA impossible. Subsection (d)(5) provides that "nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding." 5 U.S.C. 552a(d)(5). The Department concludes (apparently with regard to this subsection and the others discussed above) that "it is entirely implausible that such substantial protections as these were intended only to apply to the incremental access which the Privacy Act provides beyond that of the FOI Act—so that they could be entirely avoided if the FOI Act alone were the basis of the request." [9]

Initially, it might be said that entirely avoiding the restrictions of (d)(5) by means of the FOIA may be difficult in many, if not most, situations as exemption 7 of the FOIA may well apply to such records. Secondly, the OMB Guidelines interpret subsection (d)(5) within the framework of the FOIA:

"This provision is not intended to preclude access by an individual to records which are available to that individual under other procedures (e.g. pretrial discovery). It is intended to preclude establishing by this Act a basis for access to material being prepared for use in litigation other than that established under other processes such as the Freedom of Information Act or the rules of civil procedure." OMB Guideline 28960.

Thus, subsection (d)(5) would seem to leave the FOIA unimpaired.

Other procedural variations between the two Acts are noted by the Department in arguing that the Privacy Act and the FOIA are incapable of concurrent application. The Privacy Act prescribes no time limits on the agency decision to grant or deny access to records unlike the FOIA which sets limits. Neither does it require an administrative appeal of the denial of access to records. A two-year statute of limitations is applicable to civil relief under the Privacy Act. The FOIA has no specific statute of limitations provision.

Regarding the time limits, OMB has recommended that agencies reply to a request for access within 10 days, the same as under FOIA. OMB Guidelines 28957. Furthermore, the fact that the Privacy Act dispenses with the necessity of administrative appeal and has no set exhaustion of remedies schedule as in the FOIA does not preclude harmonizing the two Acts. As the Department's letter recognizes, "[t]here would be no difficulty in harmonizing application of the two Acts to the same request if the effect of the Privacy Act were merely to expand access which the FOI Act already provides. Then one might reasonably assert that a requester was free to proceed under the older legislation—but could obtain still more by proceeding under the newer." [10]

An alternative interpretation—and a means to harmonize the two Acts—would be to impose the FOIA procedural requirements (time limits, appeal rights) on requests for records in a system of records. Congressional silence could mean that it intended such limits to apply. Access is not a new remedy provided by the Privacy Act and the machinery of the FOIA, in terms of administrative handling of requests, is already in existence. On the other hand, Congress did feel it necessary to prescribe time limits in the newer legislation when it provided for a new remedy, namely, the correction of individual records. 5 U.S.C. 552a(d)(2). A request for one's record contained in a system of records comes within the terms of the FOIA [11] and nothing in the Privacy Act explicitly prohibits application of the general terms of the FOIA.

It would seem that the procedural variations between the Privacy Act and the FOIA do not pose insurmountable barriers to a harmonizing interpretation and application of the two acts. They certainly do not point to a complete supersedure by the Privacy Act of the FOIA with respect to individuals' requests for their own records contained in a system of records. An examination of the substantive provisions of the Act—particularly the operation of the Privacy Act's exemptions in relation to FOIA requests for similar records—demonstrates the absurd consequences of viewing the Privacy Act as the exclusive means of gaining access to one's own records.

Sections (j) and (k) of the Privacy Act permit agencies to exempt certain systems of records from various provisions of the Act, including (d)(1), the access provision. The general exemptions in section (j) allow institutional exemptions for files maintained by the CIA and law enforcement agencies. The section (k) specific exemptions relate to the substance of the records and include records subject to (b)(1) of the FOIA (classified national security matters), investigatory records, records maintained in connection with protection of the President, purely statistical records, and records relating to qualification, testing, promotion, appointment for various forms of federal service.

The exemptions do not apply to section (b) of the Privacy Act, which outlines conditions of disclosure to third parties of an individual's records. Section (b) prohibits such disclosure without prior request or consent of the individual unless disclosure would be "required under section 552 of this title [FOIA]." 5 U.S.C. 552a(b)(2). Thus, a third party could gain access to an individual's record contained in a system of records if none of the exemptions of the FOIA applied to the records.[12] The anomaly of greater third-party access to an individual's file than the individual himself could thus result if the Privacy Act exemptions are broader than the FOIA exemptions and the Privacy Act is deemed the exclusive vehicle for individual access to his own records.

For example, assuming the Justice Department's position that the Privacy Act is exclusive, records maintained by the CIA, regardless of their content, may be exempt from the access provision of the Privacy Act. 5 U.S.C. 552a(j)(1). However, if the substance of the records does not entitle them to come under any of the nine exemptions of the FOIA, a third party would have access to the records pursuant to the FOIA and section (b)(2) of the Privacy Act.[13]

The breadth of some of the specific exemptions might also contribute to the anomaly described above. For example, records "maintained and used solely as statistical records" could be denied the individual (5 U.S.C. 55a (k)(3)), but be available to third parties under the FOIA, assuming no FOIA exemption applied. Similarly with records "maintained in connection with providing protective services to the President of the United States or other individuals", a broad exemption not keyed to the specific content of a record. 5 U.S.C. 552a(k)(4). Exemption 2 of the specific Privacy Act exemptions covers "investigatory material compiled for law enforcement purposes", a much broader exemption than the comparable law enforcement exemption of the FOIA.[14] Since exemption 7 is a frequently invoked exemption in FOIA cases, it is likely that the third party versus individual access question may arise in this context.

The difference between third-party and individual access as a result of the Justice Department's interpretation of the exclusivity of remedies also points to the ease which the limitations resultant from exclusivity may be circumvented. If an individual is denied access to records with would be available under the FOIA, all he need do, assuming he is precluded from pursuing an FOIA remedy himself, is to ask a friend to request them for him. The records would have to be disclosed pursuant to section (b) of the Privacy Act, either because the individual has submitted a written request that they be disclosed to the third party or because they are required to be disclosed under section 552 (FOIA). 5 U.S.C. 552a(b)(2).

The absurdity of the above results—greater third-party access and the promotion of circumvention—probably argues more persuasively against the exclusivity argument of the Justice Department than an effort to reconcile the minutiae of differing procedural requirements. Statutes will not be interpreted to reach absurd results.[15] Since there is no provision prohibiting recourse to the FOIA remedy nor legislative history indicating that the FOIA remedy has been superseded, the Privacy Act remedy should not be construed in a manner which will result in the anomalies described above.

CONCLUSION

There is nothing in the terms of the Privacy Act or its legislative history which indicates that the Privacy Act is the exclusive means by which an individual can gain access to his own records contained in a system of records. Many of the so-called "inconsistencies" listed in the Justice Department's letter have been reconciled with the FOIA in the OMB guidelines issued pursuant to the Privacy Act. Furthermore, they do not seem to constitute the clear repugnancies which are necessary before a court will hold that one statute has implicitly repealed or superseded another.

The primary purpose of the Privacy Act is the protection of individual privacy by controlling the collection, management, and dissemination of individually identifiable records. Access to such records by the individual is one method by which control is achieved and is a necessary adjunct to the accurate maintenance of records. It flies in the face of the whole legislative effort in this area to construe the Privacy Act as a backhanded method to limit individual access to records while at the same time preserving potentially greater access rights to third parties.

RICHARD EHLKE,
Legislative Attorney.

FOOTNOTES

[1] 15 U.S.C. 552(b)(1) is the first exemption of the Freedom of Information Act relating to matters that are "specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order."

[2] The Senate reported a privacy bill, S. 3418, on September 26, 1974. S. Rept. No. 93-1183. The House version, H.R. 16373, was reported on October 2, 1974. H. Rept. No. 93-1416. The bills were debated by both houses on November 20 and 21, 1974 and different versions were passed by the House and Senate on November 21. See Congressional Record, vol. 120, pp. 36643-36660, 36882, 36885-36921, 36955-36977 (Nov. 20, 21, 1974). A conference was not held on the differing bills, but a staff compromise was presented and debated on December 17 and 18, 1974. See Congressional Record vol. 120, pp. 40412, 40730-40731, 40879-40887 (Dec. 17, 18, 1974). The Privacy Act became law on December 31, 1974.

[3] Lawson letter, page 2.

[4] In analyzing legislative history which is relatively more illuminating than that available on the similar question in the context

of the Privacy Act and the FOIA, the Court concluded:

"In sum, we cannot find that the legislative history supports the arguments that the Rail Act should be construed to withdraw the Tucker Act remedy. The most that can be said is that the Rail Act is ambiguous on the question. In that circumstance, applicable canons of statutory construction require us to conclude that the Rail Act is not to be read to withdraw the remedy under the Tucker Act." 419 U.S. 102, 133.

[5] Title VIII of the Civil Rights Act of 1968 did not affect 42 U.S.C. § 1982, despite the fact that the former contains exemptions and time limits not contained in the latter. The Court stated:

"At oral argument, the Attorney General expressed the view that, if Congress should enact the pending bill, § 1982 would not be affected in any way but "would stand independently." That is, of course, correct. The Civil Rights Act of 1968 does not mention 42 U.S.C. § 1982, and we cannot assume that Congress intended to effect any change, either substantive or procedural, in the prior statute." 392 U.S. 409, 416 n. 20.

See also, *Fred* v. *Kokinokos*, 347 F. Supp. 942. (E.D.N.Y. 1972).

[6] Civil Rights Act of 1964 did not supercede 42 U.S.C. § 1982. The court in *Troy* v. *Shell Oil Company*, 378 F. Supp. 1042, 1047 (E.D. Mich. 1974) elaborated:

"The distinction between a Title VII claim and a claim bottomed on the Civil Rights Act of 1866 is significant. A claimant under the latter is not burdened with the procedural prerequisites of Title VII. Although the kinds of discrimination covered by the two statutes overlap to some extent, the courts have nevertheless refused to hold that the older statute was preempted by Title VIII. The remedies they create are independent and unaffected by the other's existence. . . . Thus, when discrimination of the type covered by both statutes is involved, relief may be available under § 1981 et seq. which is not available under Title VII because of a failure to exhaust administrative remedies."

See also, *Penn* v. *Schlesinger*, 497 F. 2d 970 (5th Cir. 1974).

[7] In discussing this portion of exemption 7 of the FOIA in the Conference Report on the 1974 amendments, it was stated that the conferees "wish to make clear that disclosure of information about a person to that person does not constitute an invasion of his privacy." Some identity verification procedures would seem to be necessary in order to determine the applicability of this exemption. The Attorney General also states that "when information otherwise exempt under clause (c) is sought by a requester claiming to be the subject of the information, the agency may require appropriate verification of identity." Attorney General's Memorandum on the 1974 Amendments to the Freedom of Information Act 10 (1975).

[8] Lawton letter, page 3.

[9] Id.

[10] Lawton letter, page 2.

[11] 5 U.S.C. 552(a)(3) provides:

"Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records which (A) reasonably describes such records and (B) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person."

The FOIA speaks in terms of "any request" for records, not just requests for records pursuant to this section.

[12] One of the exemptions, (b)(6), of the FOIA permits the withholding of "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. 552(b)(6).

The compromise final version of the Privacy Act rejected a provision of the House bill which would have made disclosure of all individually identifiable information in government files a "clearly unwarranted invasion of personal privacy" and thus exempt from disclosure under FOIA. See Congressional Record, vol. 120, p. 40407 (Dec. 17, 1974). Thus, it is possible that some individually identifiable records would not be exempt under the standards of 5 U.S.C. 552(b)(6) and thus required to be disclosed (assuming other FOIA exemptions were not applicable) to third parties under (b)(2) of the Privacy Act.

In addition, it would not seem that the Privacy Act is a statute under the terms of exemption 3 of the FOIA which permits withholding of matters "specifically exempted from disclosure by statute." 5 U.S.C. 552(b)(3). The exemptions in the Privacy Act are permissive and an agency is not *required* to withhold records within the purview of the exemptions. See OMB Guidelines 28971. Thus, any exemptions from disclosure under the Privacy Act is "the creature of the administrator and does not fall within the meaning of the words 'specifically exempted . . . by statute.'" *People of State of California* v. *Weinberger*, 505 F. 2d 767 (9th Cir. 1974); see, *FAA Administrator* v. *Robertson*, 45 L. Ed. 2d 164 (1975).

[13] It is likely that agencies will not exempt records from the terms of the Privacy Act if they would be available under FOIA, according to an OMB official connected with the drafting of the guidelines.

[14] Access to such investigatory records is expanded if "any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material . . ." 5 U.S.C. 552a(k)(2).

No such showing of injury is required for access under the FOIA.

[15] See, 73 Am. Jur. 2d *Statutes*, § 265.

EXHIBIT 4

OFFICE OF THE DEPUTY
ATTORNEY GENERAL,
Washington, D.C., October 1, 1975.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: I recently received a copy of your letter to Attorney General Levi expressing your concern about Deputy Assistant Attorney General Lawton's letter and the Justice Department's interpretation of the Privacy Act as ostensibly expressed in her letter.

Some weeks before I saw your letter, I and others here had concerns substantially similar to yours. Hence we discussed and drafted an additional provision to be added to our Privacy Act regulations. We think this provision, a copy of which is enclosed, serves to meet what you suggest.

That is not to say, however, that this provision will resolve all of the difficult procedural issues posed by the various sections of the two Acts. For that reason, I welcome your suggestion for a cooperative effort and have so notified my principal advisors. The Chief Counsel of your Subcommittee will be contacted shortly in this regard.

Sincerely,

HAROLD R. TYLER, Jr.,
Deputy Attorney General.

SECTION 16.57. RELATIONSHIP OF PRIVACY ACT AND THE FREEDOM OF INFORMATION ACT

(a) Issuance of this section and actions considered or taken pursuant hereto are not to be deemed a waiver of the Government's position that the mtaerials in question are subject to all of the exemptions contained in the Privacy Act. By providing for exemptions in the Act, Congress conferred upon each agency the option, at the discretion of the agency, to grant or deny access to exempt materials unless prohibited from doing so by any other provision of law. Releases of records under this section, beyond those mandated by the Privacy Act, are at the sole discretion of the Deputy Attorney General and of those persons to whom authority hereunder may be delegated. Authority to effect such discretionary releases of records and to deny requests for those records as an initial matter is hereby delegated to the appropriate system managers as per the Notices of Systems of Records published in 40 *Federal Register* 167, pages 38703–38801 (August 27, 1975).

(b) Any request by an individual for information pertaining to himself shall be processed solely pursuant to Subpart D of these regulations. To the extent that the individual seeks access to records from systems of records which have been exempted from the provisions of the Privacy Act, the individual shall receive, in addition to access to those records he is entitled to receive under the Privacy Act and as a matter of discretion as set forth in subsection (a), access to all records within the scope of his request to which he would have been entitled under the Freedom of Information Act, 5 U.S.C. 552, but for the enactment of the Privacy Act and the exemption of the pertinent systems of records pursuant thereto. Only those fees set forth in section 16.46 of this Title may be charged a requester as to any records to which access is granted pursuant to the provisions of this subsection.

(c) When an individual requests access to records pertaining to criminal, national security or civil investigative activities of the Federal Bureau of Investigation which are contained in systems of records exempted under provisions of the Privacy Act, such requests shall be processed as follows:

(1) Where the investigative activities involved have been reported to F.B.I. Headquarters, records maintained in the F.B.I.'s Central files will be processed; and,

(2) Where the investigative activities involved have not been reported to F.B.I. Headquarters, records maintained in files of the Field Office identified by the requester will be processed.

NATIONAL TRANSPORTATION POLICY

Mr. TAFT. Mr. President, on September 17 the Department of Transportation issued a statement of national transportation policy. The Secretary of Transportation, Mr. William T. Coleman, stated in his introductory letter to the statement that, "we—the Department of Transportation—invite and urge your criticisms and comments." Accordingly, I would like to offer a few observations on several specific aspects of the policy statement.

First, I would like to offer my appreciation and support for the emphasis in the policy statement on the need for further development of intermodal relationships. We have too often looked at transportation as roads, railroads, or airplanes, not as an integrated process of moving goods from point A to point B. Yet it is the latter which is the driving factor, not the specific mode. As the policy statement notes, "The potential of intermodal services remains for the most part unrealized. The exploitation of the inherent efficiencies of modes working in combination has been inhibited by an array of physical and institutional barriers, such as inadequate cross-modal terminals and

regulatory inhibitions against through-ticketing or multimodal ownership. We must systematically identify and remove barriers to efficient connectivity between modes." I agree fully with the policy statement in this respect, and I hope we will soon see proposals from the Department of Transportation for legislation designed to facilitate intermodal cooperation, and the formation of intermodal transportation arrangements and organizations.

Another section of the policy statement dealing with mass transit has aroused some concern on my part, both in relation to what is stated and in relation to what was not stated.

On page 8 of the statement, it is noted that Federal policy should: "Regard the present types of fixed systems as appropriate only in a few highly populated metropolitan areas, and support efforts to develop a type of rail system which is much less costly to build, operate, and maintain."

Then, on page 11, the statement says that mass transit needs, "in a few places, rapid or light rail facilities, in order to attract greater patronage."

These two statements seem contradictory in several ways. In the first place, the statement on page 8 fails to mention the fact that we already have a type of rail system which is much less costly to build, operate, and maintain than is rapid transit. It is light rail. It is not a matter of developing light rail—our Nation ran on it 50 years ago, in the form of streetcars and interurbans; Europe runs on it today; several American cities still have it; and Dayton, Ohio has applied for Federal funding to build a light rail system—but is having difficulty in getting the Department of Transportation and the Urban Mass Transit Administration to recognize its existence and support it. The fact that the policy statement could speak as if we had to start searching for such a rail mode is unfortunate evidence that light rail still is not recognized within DOT.

Second, whereas the first part of the statement on page 8 would appear to assert, correctly, that only the larger cities can justify a full heavy-rail rapid transit system, the statement on page 12 appears to lump light rail in with rapid transit and say only a few places are suitable for light rail. This, again, shows a failure on the part of DOT to understand light rail. Light rail is precisely the less costly rail system which DOT says on page 8 that it wants. Because it is low cost—generally about one-fifth the cost to build than rapid transit—it is suitable for many cities across the country, including medium and even low-density urban areas. It is totally unfair to light rail—and to America's urban residents, who would benefit greatly from an inexpensive rail transit system—to lump light rail with high-cost rapid transit. I hope the Department of Transportation will clarify the statement on page 12, and make it clear that they are referring there only to rapid transit, not to light rail.

Third, on this point, it is disappointing that the statement does not have a specific section on light rail. Light rail is not just another mode of urban transit: It could be a solution to a large part of our urban transit dilemma. The dilemma is that, whereas rail transit is highly attractive to potential users, the costs of a rapid transit system are increasingly prohibitive; on the other hand, a bus system, while less costly than rapid transit, is unattractive to many urban and suburban residents. Light rail provides rail transit, with all the attractive features of that mode, at a cost equal to or less than the cost of dedicated busways and, as already noted, up to five times less than that of conventional rapid transit. It permits urban areas to provide an attractive alternative to the automobile at an affordable price. It is relatively pollution free. I believe that, without a statement recognizing these facts, the policy statement cannot be considered complete.

There is one other part of the policy statement on which I would like to offer some comments at this time: the attitude expressed in the statement toward Amtrak.

Rail passenger service must, I believe, play an increasingly important part in our national transportation system. Passenger trains are highly energy efficient, produce very little pollution per passenger-mile, and contribute toward efficient land use. They also have service characteristics which make them potentially attractive to a large number of interurban travelers: they are safe; they are dependable in bad weather; they offer more space per passenger than any other mode of travel; hence they are extremely comfortable; and on many runs, they can offer shorter real travel times than competing modes. In terms of the long-run view, we must remember that the railroads are the only mode of travel which can be electrified and run without petroleum, using today's technology.

The policy statement is, in my view, unfair to Amtrak. It consistently talks about Amtrak as a subsidized form of passenger transportation—which it is—but then talks as if Amtrak's competitors were not subsidized. In fact, without the indirect subsidies buses and airlines receive, they would also be unable to haul passengers without a direct subsidy, at a cost that could compete with the automobile. The railroads over which Amtrak runs must not only build and maintain their own roadbeds, they also pay taxes on those roadbeds. The rate at which Amtrak must recompense the railroads for using their tracks reflect these overhead costs. Buses, on the other hand, run on roads built at public expense. The policy statement itself notes that (p. 17), "In any case, motor carriers—which applies also to buses—are not required to make massive capital outlays for their use of highway rights-of-way." Nor are airlines required to make massive capital outlays for airports and air traffic controllers. What would Amtrak have to pay the railroads for trackage rights, if the Government provided roadbeds and train control personnel? I would suggest that, in that situation, we would probably not have Amtrak—because passenger trains would have remained profitable, and would still be run by the railroad companies.

The policy statement is thus unfair to Amtrak, in the way it compares it with other modes. Of equal importance, the statement fails to make two points of fundamental importance, relating to rail passenger service:

First. Rail, bus, and airplane are not essentially competing modes; they are complementary. Ideally, the bus should provide service between small- and medium-sized communities and the nearest railhead. This service is of great importance to small communities and rural areas, and it cannot be provided economically—if at all—by passenger trains. Passenger trains should provide interurban service—fast, modern, comfortable service between major urban centers. This can be done both with corridor trains, and with long distance trains: it must be remembered that long distance trains provide a type of corridor service between the intermediate stops along the route. The airplane should provide fast, premium quality service on long distance routes, for those for whom time is of great importance. Again, seen properly, all three modes are complementary, not competitive. The policy statement should make this explicit, and it does not do so.

Second. The real target for bus, train, and plane, in passenger service, is not each other, but the passenger in the private automobile. Over 80 percent of all intercity travel is still by private automobile. Each public transportation mode should be working, not to take business from another, but to convince the automobile driver to use public transportation. Since each public mode is complementary, this should be a joint effort. It should be directed at offering the automobile passenger better service, in the categories which are important to that passenger, such as speed, price, comfort, and safety, than he can obtain from his private car. Again, this should be part of our national transportation policy, yet it is not stated in the policy statement.

In the Amtrak legislation passed by the last two Congresses, Amtrak has been given greater independence from the Department of Transportation. I hope the negative attitude toward Amtrak expressed in the policy statement is not a product of institutional jealousy and infighting. No one's interest would be served by a vendetta by DOT against Amtrak, because Congress has lessened DOT's control over Amtrak. If elements within DOT wish to pursue such a vendetta, let them do so by attacking Congress, which made the decision to give Amtrak greater authority.

In conclusion, I would like to express my sincere appreciation to the Secretary of Transportation and the whole of the Department of Transportation for making a statement of national transportation policy. As the Secretary states in his introduction, the statement of September 17 is part of an evolving process. I hope others in the Congress will join with me in offering suggestions as to how the statement can be improved, so that it can evolve into the basis of a true national transportation policy.

PROPOSED ARMS SALE

Mr. SPARKMAN. Mr. President, section 36(b) of the Foreign Military Sales Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million. Upon such notification, the Congress has 20 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD the notification I have just received.

There being no objection, the notice was ordered to be printed in the RECORD, as follows:

OFFICE OF THE DIRECTOR DEFENSE SECURITY ASSISTANCE AGENCY, AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,
Washington, D.C., October 9, 1975.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Foreign Military Sales Act, as amended, we are forwarding under separate cover Transmittal No. 76-8, concerning the Department of the Air Force proposed Letter of Offer to Korea for an estimated cost in excess of $25 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

TRANSMITTAL NO. 76-8, NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE FOREIGN MILITARY SALES ACT, AS AMENDED

a. Prospective Purchaser: Korea
b. Total Estimated Value: $205.0 million
c. Description of Articles or Services Offered: Fifty-four F5E's and six F5F's plus support equipment
d. Military Department: Air Force
e. Date Report Delivered to Congress: October 9, 1975

TRIBUTE TO COL. JOHN (JAKE) T. CARLTON

Mr. PELL. Mr. President, it is a pleasure to join with my colleagues in a tribute to Col. John (Jake) T. Carlton.

Colonel Carlton is known to all of us of the Reserve Officers Association for his outstanding service to Reserve officers of the Armed Forces throughout the country during his 18 years of service as ROA executive director.

In serving the Reserve officers, Colonel Carlton also served all the citizens of our Nation through his contributions to the development of a modern military reserve system as an essential component of our national defense.

Colonel Carlton has been an effective and eloquent spokesman for the concept of the citizen-soldier and for the maintenance of a strong military reserve force.

In his advocacy he has served his country well.

I extend to him my best wishes on his well-earned retirement as executive director of the Reserve Officers Association.

COMMON SITUS: A DANGEROUS BILL

Mr. FANNIN. Mr. President, the Senate is about to take up S. 1479, a bill to allow common situs picketing, regarded as a form of illegal secondary boycott under current Federal law. Against the combined opposition of the builders and general contractors, most nonunion workers and even many members of organized labor, and the general public, which is fed up with economic strikes, stands the power of building trades unions, which are working overtime to get this common situs bill passed.

The unions have apparently succeeded in persuading certain persons in high places of the rightness of this legislation. According to some reports I have read, even the President has been persuaded not to veto the bill should it be passed by the Congress. I certainly hope these reports are wrong.

However strong the public's opposition to S. 1479, the unions' influence cannot be discounted. Their arguments can be easily dismissed, however. As the Arizona Republic commented, the unions' contentions that present law unfairly discriminates against them are "specious."

The White House has indicated that President Ford would sign the bill as a part of a package including S. 2305, the Dunlop bill to establish a national framework for collective bargaining in the construction industry. Whatever the merits of this latter bill—and I tend to believe they are few—I agree with the Republic's editorial judgment that "the common situs bill is much too high a price to pay. The President should reconsider his decision."

Mr. President, I request unanimous consent that the text of the October 2 Republic article, "A Dangerous Bill" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A DANGEROUS BILL

Year after year for a quarter of a century, the construction unions have been putting the muscle on Congress for passage of a measure called "the common situs bill."

Year after year, Congress has steadfastly rejected the measure, but this year the unions' persistence may pay off.

The House passed the bill in July and a similar bill was approved by the Senate Labor Committee this month. President Ford has indicated that, if the Senate passes the bill, too, he will sign it.

This would be a disaster for the construction industry, which has troubles enough already.

Large construction projects usually involves dozens of contractors. Under existing law, if a union strikes against a contractor, it can picket only him. The common situs bill would permit the union to picket the entire project and thereby shut down the entire project, since union members will not cross a picket line.

The unions say the present law unfairly discriminates against them. They contend that, since an industrial union can picket an entire plant in a labor dispute, there's no reason why a construction union shouldn't be able to picket an entire project.

This is a specious argument.

In the case of a production industry—steel, autos, petrochemicals, glass—all the employes affected by a picket line work for the same employer.

Under the common situs bill, employers who had no quarrel with any union would be made to suffer because a single contractor did.

The unions argue that, since all the contractors are engaged in the same venture, they should be treated as a single employer. That, too, makes no sense.

The unions negotiate with the contractors in each trade separately, not as a group. They aren't a group. As soon as the project is finished, they will go their separate ways.

The unions have not done badly under the present law. Construction workers are among the highest-paid in the nation. In Phoenix, for example, a plumber earns $12.86 an hour counting fringe benefits; a bricklayer, $11.54; a carpenter, $10.97; an electrician, $12.71. These can hardly be called slave wages.

The unions want the common situs bill, nevertheless, because they believe it would help them in organizing. They believe that, given the bill, when they picket a nonunion contractor, thereby closing down on a project, all the other contractors will put the heat on him to hire union men.

Ford has agreed to sign the bill as part of a package. His labor advisers are preparing a companion bill that would shift some of the power to authorize strikes—and negotiate settlements—from local unions to a higher level in the union structure. The experts say this would decrease the number and duration of strikes.

Maybe it would, but the common situs bill is much too high a price to pay. The President should reconsider his decision.

AWARD OF NOBEL PEACE PRIZE TO ANDREI SAKHAROV

Mr. JACKSON. Mr. President, I am deeply moved by the choice of Dr. Andrei Sakharov for the Nobel Peace Prize. By honoring at this time the Soviet Union's leading advocate of human rights, the Nobel Committee is recognizing not only his past achievements but his present efforts in a vital and continuing cause.

For his strength of character, his eloquence, and his wisdom, Sakharov has earned the admiration and respect of men throughout the world who are dedicated both to individual liberty and to the development of a more civilized world that can only result from a lowering of the barriers to the free movement of people and ideas.

THE AMERICAN MEDICAL ASSOCIATION AND THE INDIAN HEALTH CARE IMPROVEMENT ACT

Mr. FANNIN. Mr. President, since 1924, and perhaps even earlier, the American Medical Association has been vitally concerned about the quality of health care provided to our Indian citizens. On numerous occasions and in several publications the AMA has spoken out about the deficiencies in manpower, services and facilities in the Indian Health Service. It has urged the Federal Government to increase its budget to eliminate these deficiencies and to build

a health care system that is progressive and capable of serving the growing demand for better health care by our Indian people. The response, as we all know, has not been encouraging. As a result, the American Medical Association in keeping with its historical commitment to better health care for American Indians recently testified before the House Subcommittee on Indian Affairs on behalf of the Indian Health Care Improvement Act. Their testimony dramatizes the belief held by many health care professionals that Indian health care is a priority concern and that the Federal Government has a responsibility to develop a health care program that is superior in scope and in quality.

Mr. President, because of the significance of the American Medical Association in furthering the enactment of the Indian Health Care Improvement Act, I ask unanimous consent to have printed in the RECORD the testimony of the association.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE AMERICAN MEDICAL ASSOCIATION

Mr. Chairman and members of the subcommittee: The American Medical Association welcomes this opportunity to present its comments on H.R. 2525 and S. 522, the Indian Health Care Improvement Act and to offer its general support of the program initiatives created by this legislation.

I am Doctor Robert B. Hunter, of Sedro Woolley, Washington, in the private practice of family medicine. I also have the privilege of serving on the Board of Trustees of the American Medical Association. Accompanying me is Charles W. Pahl, Assistant Director of the AMA's Legislative Department.

In December, 1973, at its Clinical Convention, the Association's House of Delegates adopted a Report of the Council on Medical Service on "Health Care of the American Indian". The report was prepared by two of the Council's subcommittees—its Committee on Health Care of the Poor, and the Committee on Government Medical Service.

The Committee on Health Care of the Poor has, as its name implies, the objective of identifying and seeking remedies for the defects and deficiencies in health care for the Nation's needy. In pursuit of that goal. it has conducted studies and site visits to Appalachia, among migrant workers, and has visited Indian reservations and met with non-reservation Indians.

The Committee on Government Medical Services maintains liaison with numerous Federal agencies, and among these is included the Indian Health Service of the Public Health Service. This Committee, too, has explored on-site care provided to reservation Indians in the Southwest, and to Indians and Alaska natives in Anchorage and in remote Alaska fishing villages.

The Report adopted by the House of Delegates contains a summary of the history of health care for the American Indian and a reaffirmation of past Association policies. Most significantly it contains a series of twenty-five specific recommendations from the two Committees for improvement of Indian health.

This report is the distillation of over fifty years of concern on the part of the medical profession with health care for American Indians. Index, the report cites a 1924 recommendation of the Association to the Secretary of the Interior to provide "adequate compensation and improved working conditions" for physicians in the Department of the Interior's Indian Service. These still comprise two of the major needs to improve health care for the Indians.

One of the most significant points we have noted, in reviewing the history of health care for the Indians, is that the problems and the proposed solutions remain relatively unchanged. From 1947 to 1949, the Association, at the request of the Secretary of the Interior, sent teams of physicians to a number of reservations to investigate the care being rendered Indians. Let me cite some of the recommendations from the report on "Medical Care among the Upper Midwest Indians" published in the Journal of the American Medical Association in January, 1949.

The report recommended:

A substantial increase in the budget for Indian health care;

Transfer of responsibility for care to the Public Health Service (which the Association's Committee on Trachoma had recommended in 1929, and which the Association again recommended to Congress in 1949 and 1953);

Elevation of professional standards, through salary increases, to a level comparable with other Federal agencies and allowance of time for graduate study;

Substantial increase in the number of public health nurses;

Modernization and improvement of hospitals, and particularly of hospital equipment and other facilities, thus permitting those who are on duty to maintain in their work the high standards of scientific medicine;

Greater emphasis on social factors affecting health, especially improved housing and sanitary conditions;

Revised education to enable Indians to become independent; and,

Preventive measures against addiction to alcoholic excess and the use of narcotic drugs.

The report noted that many of these recommendations had been made before but have not been carried out, "largely because of inadequate budgets".

Let me emphasize that the Association does not consider the deficiencies in Indian health as evidence that the Public Health Service or its Indian Health Service have been at fault. Indeed, in 1959, the Association's House of Delegates commended the Services efforts to increase the Indian population's independence and self-sufficiency and, in the report adopted in December, 1973, we stated that we have been continually impressed with the dedication of Indian Health Service physicians, consistent with the highest ideals of the profession.

To a large extent, the increases in the budget for Indian health over the years have been little more than "cost-of-living" increases. They have enabled the Service to maintain its health care system, but not to improve it. A few new facilities have been built, a few old ones modernized, but the majority can only be maintained—getting older and more outdated. The Service's manpower problems have been met with patchwork or "Band-Aid" solutions—the military draft alternative, limited pay increases, and some financial grants-in-aid with service payback provisions.

The Service has developed some of its own partial solutions. The "physician's assistant" movement, which many consider new, has roots in the Service's training of Indian and Alaska community members as health workers, in contact by radio with physicians at the nearest Service hospital.

The Service has done well with what it has, but it does not have enough. The Association believes that today, when the nation appears ready to correct some of the wrongs done the first Americans, there is an opportunity to bring the health status of the American and Alaska Native to the level of the general population, rather than being some decades behind.

We therefore sincerely welcome the opportunity to testify here today, and to offer our support for the intent of the legislation you are considering and for many of its specific programs. Our recommendations for modifications will, in our opinion, make these proposed programs more effective.

Both legislative programs pending before the Subcommittee are similar in their purposes and provisions. Either of these programs, if enacted, fully implemented and funded, would have an immense effect on the health resources and services available to Indians and on their educational opportunities, their environment and on their future health status.

The AMA is in the gratifying position of seeing many of its findings, conclusions, and recommendations being acted upon through the legislation being considered here today. While we are fully supportive of the initiatives which will be generated by these bills, we would like to suggest amendments to both bills.

H.R. 2525 authorizes a five-year program of assistance to Indians while S. 522 contains authorizations for seven years. While we would agree to the merit of a long-term authorization for seven years. While we would agree to the merit of a long-term authorization in terms of program building, personnel recruitment and retention, and in undertaking long-range plans, many of the proposed programs should have the benefits of early Congressional review. Congress should have the opportunity, at the earliest practicable time, to examine the programs so as to determine whether they are in fact meeting the needs of Indians. In this way, ongoing programs may be quickly modified and new programs initiated as actual experience develops under this legislation. We believe that the best interests of the Indians, the Indian Health Service, and the Congress would be better served if the legislation was limited to three years rather than five or seven years. This will insure that program evaluation and adjustments will take place at an early time. I would now like to comment on individual provisions of the legislation before you.

TITLE I—INDIAN HEALTH MANPOWER

This title is primarily concerned with a proposed scholarship program for Indians who wish to enter educational and training institutions of the health professions, and who agree to provide their services to Indians.

It is generally recognized that there is a maldistribution of physicians in this country. In response to this problem, organized medicine at national, state, and local levels, as well as many other voluntary groups, has initiated or expanded programs to improve the distribution of manpower and services in relation to health care needs. At the same time, legislative efforts to mandate solutions through the control of the number, types, and geographic location of residency positions and through forced service in medical shortage areas have also increased and legislation incorporating such coercive provisions is currently being considered by the Congress. We believe that this legislative approach will not in any meaningful way ameliorate the problem of physician maldistribution.

Based upon extensive studies by the AMA and by others, it has been concluded that increased money alone will not attract a physician to a practice location. For a physician to be satisfied to practice within a community, he must be able to use his professional skills and maintain contact with other physicians. Moreover, he must feel at home in the community which must provide the type of environment in which his family will be content. The Association has, therefore, placed emphasis on increasing the number of Indians in the health professions in the

hope that if they are provided with adequate income and professional resources, they will participate in the care of their own people.

S. 522 establishes a Health Professions Recruitment Program for Indians under which grants should be made to a variety of organizations to assist them in identifying Indians with a potential for education or training in the health professions. These Indians would be encouraged to enroll in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or the allied health professions. For those Indians not qualified to enroll, provision is made for such post-secondary education as is required to get them qualified.

This legislation also makes funds available for publicizing existing sources of financial aid available to Indians, and for the establishment of such other programs as will enhance and facilitate the enrollment of Indians in schools of the health professions. Similar authority is not provided in H.R. 2525.

We believe this is a worthwhile program which should be established on an experimental basis so as to determine its value in recruiting Indians for enrollment in schools of the health professions. In addition to this primary function, the program has the potential of pointing up deficiencies and omissions in the present Indian educational system, and in suggesting how these shortcomings might be overcome. We believe this program authority contained in Title I of S. 522 could have a beneficial effect on the recruitment of Indians to the health professions and we urge your support of it.

With regard to the Health Professions Scholarship Program, both H.R. 2525 and S. 522 offer financial support to students who will promise to undertake the care of Indians following completion of their education and training. Both bills offer Health Professions Preparatory Scholarship Programs for Indians, and both provide for continuing education. We find this laudatory. We support, also, the provisions creating priorities for Indians in the scholarship program.

There is, however, a larger question relating to these proposed scholarships. In 1971, the Congress enacted the Comprehensive Health Manpower Training Act, contained in Title VII of the Public Health Service Act. This Act authorized financial assistance to able students who wish to pursue a career in one of the health professions. Special authority was created to assist students from minority groups to prepare themselves for careers in the health professions. American Indians and Alaska Natives are eligible for such assistance and we believe this is the proper long-term method by which assistance should be made available to assist able young men and women of the American Indian community to enter the health professions.

However, we recognize that, because of the relatively short time the Comprehensive Health Manpower Training Act has been in effect and the inadequacy of the funding of the program, the program has not to date had an appreciable effect on the number of American Indians in the health professions. Therefore, there is merit in establishing a temporary, special legislative program of assistance to accelerate the entrance of American Indians into the health professions educational institutions. It should be viewed as a temporary program, however, with the long-range source of assistance contained in the Comprehensive Health Manpower Act.

There are some basic differences in the scholarship program offered under the two proposals. H.R. 2525 leaves to the Secretary the determination of when a scholarship recipient is rendering service to Indians in satisfaction of his obligatory service requirements as well as how much service must be given before he has fulfilled his obligations under the program. It also requires a punitive two-for-one payback of assistance should the recipient not provide the required care to Indians. S. 522, by contrast, requires a year of service for each year of assistance received and requires that such service payback be fulfilled by providing care to Indians. We believe the latter provisions to be preferable since they set out a scholarship recipient's exact obligations under the program and provide needed assurances that the intent of the program—service to Indians—will be fulfilled.

With regard to the cash payback provisions for those scholarship recipients who do not satisfy their service obligations, we believe that the two-for-one payback requirement under H.R. 2525 is unnecessarily harsh. The absence of any provision for cash payback under S. 522 appears to us to be unrealistic and we would recommend that a provision be developed which would not require the scholarship recipient to pay back more than the amount of assistance received, with interest, should he not provide service to Indians. While we share with the authors of H.R. 2525 the desirability of creating disincentives to defaulting on the agreement to provide services to Indians, we do not believe that the proposed punitive measures are warranted or desirable.

S. 522 provides for two new programs which are not called for in H.R. 2525. The first is an Indian Health Service Extern Program under which scholarship recipients would be entitled to employment in the Indian Health Service during nonacademic periods. The employment would not count towards the fulfillment of the individual's obligated service requirements. While this is a minor program in its scope, it could have a major effect in the maximum utilization of the individual once his training is completed, and in the individual's adjustment to the provision of services to Indians through the Indian Health Service. We recommend support of this provision.

The second authority would enable the Secretary to establish, through the Indian Health Service, a program of grants to individuals and to various groups and entities to establish and carry on programs to train individuals to provide comprehensive services to Indians in the areas of environmental health, health education, and proper nutrition. As this Subcommittee will recall from testimony presented earlier in this Congress by the AMA during consideration of the Comprehensive Health Education Act, the Association is well aware of the importance of health education in reaching and maintaining a high level of health. We would urge that this proposed program of health education contained in S. 522 be supported.

TITLE II—HEALTH SERVICES

As an addition to current ongoing programs of the Indian Health Service, Title II of both bills provides special programs aimed at eliminating backlogs in health care services needed by Indians. Significant differences exist, however, between the bills with respect to authorizations for positions and funding for patient care, field health, dental care, and maintenance and repair. We find it difficult to evaluate these authorities since their intent and effect are unclear. If the appropriations authorizations are solely for the positions enumerated, the average amount per position appears to fluctuate according to no set pattern, and to be unrealistic in some instances. Neither bill indicates for what other purposes these appropriations could be used.

We would recommend that the authorization to employ persons to implement the provisions of this section be defined to permit employment, on a contract basis, of private health professionals, on a long-term, short-term, or intermittent basis. Such an approach will permit greater flexibility in meeting patient needs since some specialists will be needed for only a limited number of cases. It will also assist in obtaining the necessary manpower, since more individuals in private practice would be willing to take leave of their own practices for brief periods than will wish to assume long-term Civil Service or Commissioned Corps commitment.

In addition to the health services authorized in both bills, S. 522 has authorization for a variety of mental health services, alcoholism treatment and control programs, and the placement of health care personnel in primary and secondary schools operated by the Bureau of Indian Affairs. While the intent of these proposed mental health and alcoholism programs is laudatory, we would recommend against categorizing these conditions and would urge, instead, that adequate funding be authorized under the general authority of this title for health services so that flexible and appropriate care for these conditions may be carried on as a part of the overall health care program. With regard to the provision of health care personnel in schools of the Bureau of Indian Affairs, this would seem to be a reasonable provision and we would recommend its support.

TITLE III—HEALTH FACILITIES

In almost all respects, the two proposals before the Subcommittee provide comparable authority for the construction, renovation, or modernization of Indian Health Service hospitals, health centers, and other facilities. The Association is well aware of the deficiencies of Service facilities and has long recommended an immediate construction and modernization program. I would also like to emphasize the Association's position that lasting acceptable solutions to Indian health problems require Indian participation in planning and program operation. We are, therefore, particularly pleased to note that S. 522 directs the Secretary to consult with the Indian tribes affected prior to expending funds for construction, modernization, or renovation so as to determine their preference of facility size, location, and other characteristics. The Senate bill also requires that, where practicable, the facilities which are constructed or renovated must meet the standards of the Joint Commission on Accreditation of Hospitals within 5 years. This is an important indication of the determination of S. 522 to assure Indians of a high level of health care and we would urge support of this provision in S. 522.

There is one additional provision in Title III of S. 522 upon which we will comment. Under this legislation, the Secretary is directed to give preference to Indian owned and operated organizations in contracting for the construction or renovation of any facilities authorized under this Act, requiring that wages paid must not be less than the local prevailing wage rate for similar work. In seeking to provide to Indians pride, dignity, self-sufficiency, and self-esteem, the value of these provisions is indisputable. We would urge support of these provisions of S. 522.

TITLE IV—ACCESS TO HEALTH SERVICES

Under this title Federal facilities would, for the first time, be eligible to participate in the Medicare and Medicaid programs.

While both the proposals before you would make Indian Health Service facilities eligible for Medicare and Medicaid payment, significant differences are contained in the two proposals. H.R. 2525 states that these facilities" . . . are deemed to be accredited facilities, the services so provided shall be deemed to be provided by licensed practitioners in their respective fields, and the facilities may receive payment for such services on the same basis as other providers of services." The bill then instructs the Secre-

tary to undertake the improvement of the facilities so that they meet the accreditation standards imposed on other providers. By contrast, S. 522 would also deem Indian Health Service facilities eligible for reimbursement *provided* that prior to the provision of any care or service for which reimbursement might be made the IHS facility meet the same standards as other similar health care providers. In the case of existing facilities which cannot meet the standard at the time the bill is enacted, the Indian Health Service would be required to submit an acceptable written plan for bringing the facility into compliance within two years. We believe that the provisions of S. 522 are clearly superior. We believe that it is clearly inappropriate to use Medicare and Medicaid funds in effect to subsidize a substandard Federal health facility which, on its own is not given an adequate budget, and thus perpetualize a substandard level of care which would be intolerable to accept for any other segment of society. While we have no objection to supporting a precedent-setting provision which would entitle a Federal facility to receive Medicare and Medicaid funds for the care intended under this bill, we cannot support a lowering of standards. Before these facilities receive funds, they should be brought up to an acceptable level of care. For that reason we urge support of the provisions of Title IV of S. 522.

TITLE V—HEALTH SERVICES FOR URBAN INDIANS

This title authorizes the Secretary to enter into contracts and provide federal assistance to urban Indian organizations for the purpose of establishing and administering outreach programs to make urban Indians knowledgeable concerning health service resources available within the urban centers and the means of gaining access to those resources.

The provisions of Title V of both proposals before you are quite similar in every respect except one. H.R. 2525 specifically states that contracts made with urban Indian organizations are limited to rendering advice and consultation to Indians and not for the provision of health services. S. 522 states that the urban Indian organization will provide or contract for health services to urban Indians when and where it deems necessary. We appreciate the importance of these urban "outreach" programs.

The medical profession has long accepted the fact that non-reservation Indians have certain special problems in making use of health resources in the community, and has recommended that state and local governments give special attention to the health and health related needs of Indians. In this regard, the AMA has long recognized the need for outreach programs for the poor. Since 1959, one of our continuing goals for the improvement of health care for the needy has been information centers listing medical and auxiliary resources available to the needy in the community.

While we recognize the need for such special concern for the problems of the non-reservation Indians, their problems are to some extent the same type of problems faced by other minorities among the urban and rural poor. In this context, we must seriously question whether this narrow approach is an appropriate subject for new Federal legislation and programs, and we would suggest that it more properly should be the responsibility of the state and local government. We would recommend that Title V be modified and presented as an experimental program, aimed at determining whether a pilot program can be established which would then become a model for State activity, rather than a continuing Federal program.

TITLE VI—MISCELLANEOUS

We believe that the reports required of the Secretary under both bills are appropriate since Congress should be informed annually of the status of the legal and moral efforts which are being made to respond to the health care needs of American Indians. We would like to offer specific support of the one-year study which is authorized by S. 552 to investigate the alcoholism and mental health problems of Indians. We believe this study should be made and we would urge your support of it.

This concludes our remarks on H.R. 2525 and S. 522. We are firmly in support of the purposes of both proposals before you and we would urge your favorable consideration of these constructive programs as modified by the suggestions which we have offered today. The time is way overdue to do something about our first Americans and I would urge the Subcommittee to act with swiftness.

Thank you for this opportunity to offer our views. We will now attempt to answer any questions which the Subcommittee may wish to ask.

A COMPETITIVE ECONOMY REQUIRES A HEALTHY SMALL BUSINESS SECTOR

Mr. BENTSEN. Mr. President, the Senate Financial Markets Subcommittee which I chair and the Senate Small Business Committee, chaired by Senator NELSON, recently completed the second of a series of joint hearings on tax and financial problems facing America's small businesses, which include family farms and ranches.

Small business, in many ways, is the essence of our country's promise. It has played an indispensible role in promoting healthy competition, creating jobs and developing innovative ideas and products.

The first round of hearings focused on tax policy, the growing Government paperwork burden and the scarcity of venture capital. The second round dealt with capital formation, the role of our tax laws in creating jobs and the subject of estate and inheritance taxes.

The testimony presented during our hearings clearly demonstrated that the burdens of inflation, recession and energy shortages have hit small business especially hard. Their costs have gone up. Demand for their products and services has generally declined. As a consequence, many are faced with an ever tightening profit squeeze.

It is not widely known but small businesses and individual entrepreneurs are the largest source of jobs in our economy.

As of 1972, the most recent year for which figures are available, 48 percent of all businesses in the United States had between one and three employees. Ninety-nine percent of all businesses consisted of firms with less than 250 employees.

But, for several years small businesses have been in a state of decline.

For example, income for individual proprietors declined from 17 percent of national income in 1945 to only 9 percent in 1974, a reduction by almost half over the past 30 years.

The current recession has hit small businesses harder than larger firms.

During the first 3 months of 1975, manufacturing corporations with assets of less than $1 million suffered a 48.9 percent decline in after-tax income, compared with the same period in 1974. By contrast, manufacturers with assets of $1 billion or more suffered a loss of only 28.5 percent for the period.

This poor profit performance means that small businesses will have great difficulty sustaining, let alone expanding, their levels of economic activity and employment.

As a result of our joint hearings, Senator NELSON and I introduced legislation to provide greater tax equity to small businessmen by extending three provisions of the 1975 Tax Reduction Act which are important to small business. These provisions increase the corporate surtax exemption from $25,000 to $50,000; reduce the tax rate on the first $25,000 of corporate income from 22 to 20 percent; and increase from $50,000 to $100,000 the amount of used property that can qualify for the investment tax credit.

One reason for the steadily declining fortunes of small businesses is that they are at a competitive tax disadvantage compared to large corporations. A 1974 congressional study found an average tax rate of 23.6 percent for 143 large corporations compared to a tax level for all corporations of about 33.4 percent.

Also in response to the hearings Senator NELSON and I introduced legislation to amend the new pension law to specifically require the Secretary of Labor to issue simplified reporting and disclosure requirements for small pension plans.

This proposal will relieve thousands of small businessmen across our Nation from unreasonably burdensome and costly paperwork. Detailed reporting requirements that may well be necessary for the largest private pension plans are simply not needed for the smallest plans. In fact, a costly paperwork burden could force many small businessmen to terminate their employee retirement plans.

In a further effort to reduce the flood of Government paperwork which threatens to inundate small businessmen, I have also introduced a bill requiring that all new legislation proposed by Congress include an explanation of the paperwork burden it would impose.

The bill directs congressional committees to list the number of forms and other recordkeeping necessities any new legislation entails.

The explanation must include the impact—in both cost and time—of all new paperwork.

It is my hope that this legislation will encourage Congress to give much greater consideration to the paperwork impact of any new legislation.

Small businesses must fill out numerous reports, as many as 52 tax forms in a single year for even a small, "mom and pop" operation. This does not reflect a Government which is concerned and responsive to the needs of its people, a Government which seeks to encourage free enterprise. It is instead a Government which favors only those large concerns that can afford to hire lawyers and accountants, and buy computers to satisfy endless requests for data, statistics and information.

What I have tried to do through this legislation, Mr. President, is to begin the job of cutting through this tangle of

redtape, to hold back the growing number of Government forms and to reduce that number wherever possible.

Another legislative initiative of significance to small businessmen is my proposal to give employers a tax credit for hiring new workers during 1976 and 1977. The tax credit will equal 10 percent of the wages of the new worker with a maximum credit per new worker of $800. The credit will only be available to businessmen who have a net increase in their work force compared to their 1974 or 1975 payrolls, whichever is greater.

This tax incentive will encourage business to hire many more workers than they otherwise might during the economic recovery.

Under my proposal, a business would receive this credit only for new employees who come from the ranks of the unemployed, and the credit must be plowed into new investments that will insure even more jobs. We are talking about a cost to the Government of an estimated $1,000 for each of these new jobs compared, for example, to the estimated $8,000 it costs to create a new public service job.

This relatively low price tag would be almost completely offset by the reduced outflow of unemployment compensation and the greater inflow of income taxes. These jobs would not end abruptly with the end of the recession, but would be permanent additions to our economy.

In an effort to encourage smaller enterprises to invest in energy saving equipment, I have proposed legislation to provide a 12-percent investment tax credit for 5 years for equipment such as computerized load management systems and heat pumps. This proposal is similar to the existing tax incentive for the installation of pollution control equipment which was added to the tax code in 1969.

The cost of energy is one of the largest single commercial and industrial operating expenses and the installation of energy-saving equipment can, by reducing total fuel consumption, substantially lower fuel costs.

Recent engineering studies indicate that tremendous energy savings can be achieved through existing technology. A 1974 study prepared for the Ford Foundation on potential fuel effectiveness in six major industries concluded that it is possible to reduce fuel consumption in these industries by as much as one-third. Many small concerns do not have enough capital to invest in this fuel saving equipment, but my energy tax credit would help overcome that problem.

As an example, computerized loan management systems have a great potential for reducing energy consumption by monitoring energy demand and interrupting a selected group of electrical devices for a short period of time. Whenever the rate of electrical consumption approaches a preselected target, for instance, one or more air conditioners, heaters, boilers or other equipment can be turned down.

Computers are already being used to cut energy consumption in buildings. In fact, some companies report they are saving up to 25 percent or more on energy costs with computerized energy conservation systems.

One department store chain reportedly reduced its average monthly use of electricity from 7.5 million to 6 million kilowatt hours—a 20 percent reduction. A major business facility in Florida is reportedly reducing electricity consumption by 15 percent.

Another example of technology which would be eligible for an energy tax credit would be heat pumps. These services take heat from the outdoor air, even during the winter, and pump it indoors to heat a structure. The sun heats the air, which serves as an energy storage area and the heat pumps withdraws this energy. These pumps are far more energy-efficient than ordinary electric heating systems.

There is a great potential for energy conservation by commercial and industrial consumers and it is essential that Congress take steps to realize this potential. Enactment of my proposal will represent a positive step in this direction, enabling countless businesses to finance these expensive energy saving devices.

Congress must take a closer look at these and other ways to help small businesses.

We can best help, I think, by creating a climate of economic opportunity which will promote broad based economic growth in this country.

Economic growth that is healthy, stable and vibrant.

These hearings we have held, these legislative initiatives and others like them, are positive steps toward creating that climate.

END THE FAIRNESS DOCTRINE

Mr. FANNIN. Mr. President, as one who supports regulatory reform, I was pleased to learn of the proposal by Federal Communications Commission Chairman Richard Wiley to have the FCC discontinue enforcement of the so-called fairness doctrine in major radio broadcasting markets. Such an experiment in deregulation is the kind of bold, imaginative approach to reform of our Federal regulatory system which should be emulated by other government agencies. I was also pleased to see that the Commissioners voted to suspend the equal time rule for radio-TV coverage of news conferences by candidates.

I have long been a critic of the so-called fairness doctrine which requires that all radio and television stations devote a certain portion of their broadcast time to the presentation of controversial public issues and, in so doing, afford a reasonable opportunity, at no cost if necessary, to spokesmen for conflicting viewpoints on these issues. In my opinion, this rule of law has created enormous burdens for local broadcasters, especially for small radio operators. It also places unreasonable restrictions on the electronic press which are not applicable to other media. Most importantly, it raises serious constitutional questions affecting the public's paramount interest in preserving a fully free press and a viable broadcasting system in America.

I am pleased to cosponsor two bills, S. 2 and S. 1178, to repeal the fairness doctrine and equal time requirements of section 315 of the Communications Act. While they may not provide the only remedies to "fairness" problems, both bills serve as a worthwhile basis for congressional reexamination and reform of the tangled framework of rules and regulations affecting the communications media in America.

FCC Chairman Wiley's proposal to lift the fairness doctrine is a welcome opportunity for those of us in the Congress who desire some deregulation of broadcasting and for local broadcasters who need it. Clearly radio is the appropriate medium for a trial run on relaxing fairness requirements. In major metropolitan areas there is ample, keen competition among radio stations offering varied programing formats and divergent views on controversial issues. I have suggested to Chairman Wiley that if the Commission is looking for representative radio markets to test this proposal, the FCC should give serious consideration to Phoenix and Tucson in my State. Both cities are major metropolitan, diversely demographic markets with many highly competitive radio outlets.

Concerning the fairnses doctrine and section 315, I call my colleagues' attention to an editorial which appeared in the October 2 edition of the Arizona Republic. While there is ample justification for citizens of network news bias and "unfairness," as the Republic points out, "a great question is at stake. And that is, the right of broadcasters to use their own judgment in the selection and dissemination of news."

Mr. President, I request unanimous consent that the text of the article, "FCC Ends Bad Rule" be printed in the RECORD.

There being no objection, the text of the article was ordered to be printed in the RECORD, as follows:

FCC ENDS BAD RULE

During last year's Arizona gubernatorial race, television and radio stations in the state found themselves compelled by law to give equal time to a candidate for governor named Wonderful Russ Shaw.

Shaw filled his free air time with such campaign promises as free food and gasoline for voters; freedom for all inmates in prison; an end to taxes; free clothing, and blasting California into the ocean so Arizona could become a seaport state.

Shaw simply was having some good fun. But in so doing, he demonstrated the abuses which have grown out of the Federal Communications Commission's Equal Time requirements in a political campaign. Since Shaw had qualified as a legal candidate for governor, he was entitled by law to equal time along with serious candidates.

Happily, the FCC has ended this incredibly bad policy. The board ruled 5–2 that equal time is suspended when radio and television cover news conferences of candidates, from presidential to local elections.

One bad FCC rule has been eliminated. Another—the Fairness Doctrine—must be abolished next.

Equal Time and Fairness doctrines have invited abuses, and restricted what should be the First Amendment free speech rights of the electronic media. The lost freedoms of broadcasters—and thus their audiences' lost freedoms—completely outweigh any benefits.

Every kooky candidate willing to spend a few dollars to qualify for office suddenly

gained some public legitimacy through the FCC's equal time policies.

Since 1964, when the policy was adopted, television and radio have been hampered in devoting ample time to serious major candidates, since they had to devote equal time to lunatics and clowns looking for a shot at fame.

The Equal Time and Fairness doctrines also have imposed on the electronic media requirements to run cost-free propaganda from social and antibusiness groups to counterbalance paid advertising messages.

A sizable body of American television viewers, however, will not totally agree with the FCC's end to equal time requirements. They are the bias-watchers who detect intrinsic liberal thought in network TV newscasting and programming, and who will insist equal time and fairness are the only weapons available to battle electronic leewardness.

We, too, have joined in criticism of network ideological biases.

But we believe a greater question is at stake. And that is, the right of broadcasters to use their own judgment in the selection and dissemination of news.

By eliminating the Equal Time policy, the FCC has taken the first tentative step in placing television and radio under the First Amendment.

Where it should be.

Mr. FANNIN. Mr. President, according to press reports, the White House Office of Telecommunications Policy is drafting a bill to authorize the Federal Communications Commission to free radio stations in major cities from most government regulation affecting programing. The bill would specify the Commission may eliminate requiring stations in the country's top 10 markets to adhere to the fairness doctrine. The bill also would eliminate certain rules covering program format and the percentage of air time devoted to certain types of programs, such as news and public affairs, as well as the frequency of commercials.

The idea behind the Wylie proposal and the OTP plan is that in major markets competition among stations may work as well as Federal regulation. I agree with this view, and I look forward to reviewing the OTP bill as part of the Ford administration's overall effort to reduce Government regulation of industry. Some legislation will undoubtedly be necessary because major changes in radio regulations could be blocked or slowed in the courts.

Congressional action to deregulate broadcasting is long overdue. Public interest and support for reform is there, yet the Congress has been slow to react. I was encouraged when earlier this year the Commerce Committee held one session of hearings on the fairness doctrine and on S. 2 and S. 1178. Unfortunately the Communications Subcommittee has not resumed those hearings, and favorable congressional action seems unlikely in the near future on these or other measures, including my own bill, S. 2119, to reform the broadcast license renewal process and to provide for a standard 5-year license term for all broadcasting stations. This is indeed unfortunate considering that there is interest and concern on the part of the broadcasting industry, the general public and many legislators in a comprehensive reform of broadcast regulation.

Many businesses are being overregulated by Government agencies, to the cost and detriment of consumers, and the public interest is not being properly served. In my view, broadcasting is one such overregulated business. I hope, therefore, that the Commerce Committee will soon resume its hearings on these important regulatory issues.

I was impressed by the testimony of the distinguished representatives from the news and broadcast media who have appeared before the Commerce Committee in its hearings on the fairness doctrine. I know of a number of additional experts in the field who have indicated their willingness and desire to testify on this matter, and I have recommended them to the subcommittee chairman, Senatore PASTORE. One of these gentlemen is Mr. Homer Lane, executive vice president and general manager of KOOL Radio-Television, Inc., in Phoenix. Mr. Lane is a member of the Government Affairs Committee of the Arizona Broadcasters Association. Because he has over 30 years' experience in broadcasting and is an expert on broadcast journalism, I believed that his testimony would be extremely valuable to the Commerce Committee's hearings and to the Communication Subcommittee's excellent work on fairness doctrine and section 315 reform.

Accordingly, because I felt that his testimony was important, and I knew that he wanted very much to appear before the subcommittee, I requested that Mr. Lane's statement be entered into the formal record of proceedings on S. 2 and S. 1178. The distinguished Senator from Rhode Island, the chairman of that subcommittee, has kindly consented to my request.

Because of the importance of the fairness doctrine issues discussed by Mr. Lane, I believe that my colleagues should read his fine statement. Accordingly, I ask unanimous consent that the complete text of Mr. Homer Lane's statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REMARKS BY HOMER LANE

Mr. Chairman, distinguished committee members, Counsel, Staff and guests. My name is Homer Lane. I am Executive Vice President and General Manager of KOOL Radio and Television, Inc., a Past President and current member of the Arizona Broadcasters Association and a member of its Government Affairs Committee. I have been employed in Broadcasting for 33 years and have been with KOOL for 24 years. I speak in support of efforts to repeal the Fairness Doctrine, Section 315 of the Communications Act and other restrictions to Broadcasting as we attempt to fulfill our journalistic functions. A poll conducted by the Roper Organization and recently released by the Television Information Office tells us that 65 percent of those queried look to television as their principal source of news. Thirty-five percent look only to television as their source of news. When we speak of the press as an institution today, we must include broadcasting, and especially television, as an integral, and in fact its most important, part. We do a dis-service to the American people when we place artificial impediments to the free flow of news between the newsmakers and the public through broadcasting. The existence of these restrictions provides ready tools for those who would wish to manipulate the news to their own ends. Because broadcasting today is in large part "the press" in America, it *must* have the same First Amendment protections as do newspapers. The restrictions placed on broadcast journalism has denied the American people a free press for too long. For this one over-riding reason, Arizona broadcasters support those bills introduced in the Senate that will remove all controls on broadcast journalism and extend the full protection of the First Amendment to radio and to television.

Our station has never had a Fairness Doctrine nor a Section 315 problem. However, we want to share with you a Section 315 experience we had last fall. It has been KOOL-TV's policy to give free five-minute programs to candidates between the primary and general elections. These special programs are normally scheduled two or three a day in the four-week period prior to the general elections in November. In September, 1974, a Mr. Mark Baker, who described himself as campaign manager for Mr. Russ Shaw, an Independent write-in candidate for Governor of Arizona in the general election, called and requested equal time on this "Know Your Candidate" free public service series. Mr. Shaw required billings as "Wonderful Russ Shaw". As he did comply with the laws of Arizona to become a legally qualified candidate for the office of Governor, requiring filing of nominating papers with the Secretary of State's office no later than the Friday before the primary or general election, and as we gave free time to the Republican and the Democratic candidates and a serious write-in candidate named Bates, we complied with the Section 315 rule and scheduled "Wonderful Russ Shaw" on one of the five-minute television programs and also on a fourteen and one-half minute free radio interview program we call "Know Your Candidate". Our audience derided us for putting this person on, as they could not believe there was a law that required us to give equal time to every "clown" that had filed petitions, knowing, as we knew, that he was not a serious candidate for the office of Governor of Arizona. The radio program given to Mr. Wonderful Russ Shaw was fourteen and one-half minutes in length and we have a transcript here of the entire program. We would like to quote several statements of this legally qualified candidate for public office.

Q. Okay—the second question is, what is your platform?

A. Well, I have a number of planks to my platform, Joe, which are, to say the least, unique, ah, freedom for all prisoners, political and otherwise. Free food and free gas. Imagine wheeling your cart down an aisle, putting anything you want into that cart, and getting to the checkout stand and having him say, "we're really glad you shopped with us", and still getting Green Stamps.

Q. Okay, the next question, what do you feel the major issues are in the race for Governor?

A. Once I am Governor, there will be no taxes. Now think about that. I'm not talking about state sales tax, city sales tax, luxury tax, I am talking about no tax. Income tax, both state and federal, will be completely eliminated, once I am Governor. I'm not talking about some socialistic system. I mean, upon, ah, election, ah, as Governor, to secede from the Union and Arizonans will then be able to collect foreign aid and it will be totally unnecessary for people to worry about things like taxes.

Q. All right, the next question, is ah, if elected—no, no, what are your qualifications, is the next question.

A. That's good question, Joe, and ah, I'm glad you asked it—. Well, let me assure you that are listening right now and even those of you who aren't listening who are going

to be told about this in, ah, explicit detail by those of you who are listening, that Wonderful Russ is no stranger to politics. Having served as President of the Wickenburg Clown Club from 1956 to 1975, and I was tell-monitor of my third grade class for over two months and even after my term as tell-monitor, the other children used to continually ask my teacher if I could be tell-monitor again.

Q. Okay, Russ, if you were elected, what, ah, would be some of the, ah, programs you would implement?

A. Well, in addition to some of the things I have already covered, for example, free food and free gas, free clothing, free housing, I might add, this is just for people who vote for me. After the complete elimination of all taxes—I plan to blast California off into the ocean and turn Arizona into a seaport community.

Q. Okay, what would be the very, very first thing you would do if you were elected Governor?

A. I demand a recount.

QUESTIONS: JOE BAILEY—ANSWERS: WONDERFUL RUSS SHAW

Q. Good evening. This is Joe Bailey for Kool News. Tonight's guest on Know Your Candidate is Wonderful Russ Shaw, an independent write-in candidate for Governor. The first question, Russ, is why are you running for this office?

A. I'm glad you asked me that, Joe, um, the reason that I'm running for the office of Governor of the State of Arizona, is because quite simply I am the peoples' choice. No other candidate in the history of Arizona, for that matter, in the history of the United States or perhaps the history of the world, has had the tremendous insight that I do into the problems of today and the capability—the unique capability, of solving the problems in Arizona today. You see, you've had a lot of candidates in the past come around making bland promises, saying they're gonna do this and they're gonna do that and once they get into office, it's the same old thing. Not with me. "Wonderful" guarantees satisfaction—satisfaction guaranteed or double your money back. Remember, when you go to the polls, write in the name "Wonderful Russ Shaw." Cast your vote for freedom.

Q. Okay—the second question is what is your platform?

A. Well, I have a number of planks to my platform, Joe, which are, to say the least, unique, ah, freedom for all prisoners, political and otherwise. Free food and free gas. Now stop and think about that for a moment. How would you like to be able to wheel your cart into any grocery store in the state, pick out anything you wanted, load your cart up, now imagine yourself if you're a housewife, think about being in that grocery store and not having to check the prices because nothing would be marked. It's free for the people, once I'm your Governor. Imagine wheeling your cart down an aisle, putting anything you want into that cart, and getting to the checkout stand and having him say, "we're really glad you shopped with us," and still getting Green Stamps. Now that's something. Gasoline. Whipping into a service station, saying "fill 'er up." It's free for the people—free food, and free gas for all Arizonans once I'm your Governor.

Q. Okay, the next question, what do you feel the major issues are in the race for Governor?

A. Well, I think the major issues have been totally avoided. Now I know most of the people listening right now have the best of intentions, but unfortunately, ah, many of you have become unwitting dupes of Raul Castro and Russ Williams. These people have indicated, ah, where possible, they were going to reduce taxes and stop, ah, help to stop crime. Let me make it perfectly clear that I'm the only candidate offering a choice not an echo, I have no intention of reducing taxes where possible. Once I am Governor, there will be no taxes. Now think about that. I'm not talking about no tax. Income tax, both state and federal, will be completely eliminated once I am Governor. Now the issue of no taxes, the complete elimination of all taxes, has been completely avoided by both of the other remaining candidates for Governor. Now, not once have you heard either one of them come out and say they were going to completely eliminate taxes. Well that will be one of my first actions as your Governor—the complete elimination of all taxes. Free food and free gas, housing. How many of you have heard Russ Williams say there would be no more, ah, prices for food. Now I'm not talking about eliminating inflation. I'm talking about free food, free housing, free clothing, free gasoline, everything people actually need will be free. I'm not talking about some socialistic system. I mean upon, ah, election, ah, as Governor, to secede from the Union and Arizonans will then be able to collect foreign aid and it will be totally unnecessary for people to worry about things like taxes. Plus my office door will always be open for anyone who wants to come in to see me and for those of you who care to work, I'd like you to carefully consider that you might like a soft political appointed job. Now think about a job where you didn't even have to come to work and you could have a starting salary of 35 to 50,000 dollars a year, depending upon the classification. Now that's a lot of money, tax free—a hell of a lot of money and for any of you out there listening now who are making less than that, think about that. Think about voting for Wonderful Russ when you go to the polls, 'cause you're voting for yourselves. By voting for me, you're voting for yourselves.

Q. All right, the next question is, ah, if elected—no, no, what are your qualifications, is the next question.

A. That's a good question, Joe, and, ah, I'm glad you asked it—ah, one of the things ah, that I've been criticized on is my lack of political experience, and, ah, they think that this is the first time I've, you know, to use a metaphore, I've thrown my hat into the political arena. Well, let me assure you that are listening right now and even those of you who aren't listening who are going to be told about this in, ah, explicit detail by those of you who are listening, that Wonderful Russ is no stranger to politics. Having served as President of the Wickenburg Clown Club from 1956 to 1957, I had a highly successful term as President of the Wickenburg Clown Club in addition to which I attended grade school right here in Phoenix, Arizona, which is in the State and that's part of the State I am running for as Governor and I was tell monitor of my third grade class for over two months and even after my term as tell monitor, the other children used to continually ask my teacher if I could be tell monitor again.

So I think this, ah, this and other qualifications the state has for Governor, ah, that you be a minimum of 25—well I am over 25, and in addition to that you have to have been an American citizen and being born in Arizona qualifies me as an American citizen, Joe, ah—plus, ah, you have to be—you know, registered in the state and I fulfill all of the qualifications. In fact, I more than fulfill them for instance; on the age requirement I am three years over. That's an added plus right there. I'm younger than the other candidates for Governor which means I'm more energetic—more dynamic. I'm capable of taking problems and solving them, instantly, you see.

Q. Okay, Russ, if you were elected, what, ah, would be some of the, ah, programs you would implement?

A. Well, in addition to some of the things I have already covered, for example, free food and free gas, free clothing, free housing, I might add, this is just for people who vote for me. Those of you who don't vote for me are going to get nothing, so keep that in mind. It's not a threat, but y'know, ah, I can't be dolin' out stuff to people who don't even vote for me or who voted against me. Ah, the complete elimination of all taxes—I plan to blast California off into the ocean and turn Arizona into a seaport community because we've had a tremendous fluctuation in Arizona, Joe, on property values and I think that would help to stabilize the construction building industries, ah, to have a lot of, ah, shorefront property available in Arizona which is something we've never had in this state. We've got miles and miles of beautiful beaches but you show me an ocean in this state, see? And this is another issue that both Castro and Williams have repeatedly refused to touch on, of blasting California off into the ocean. Another issue is electronic mind control. How many of you have ever heard a gubernatorial candidate in the past come out in favor of electronic mind control? Well, I happen to have the first electronic mind control programming unit in existence and, ah, once I am Governor, we've got a success program and a happiness program already completed. We have other programs in the workings, but as Governor, ah, I'm going to make available to all Arizona people the opportunity to become perfect, just like me. Ah, we can attach electrodes on either side of the brain and program people for happiness. Program them for success. Things people really want.

Q. Okay, what would be the very very first thing you would do if you were elected Governor?

A. Demand a recount.

Q. Okay, we have another ten minutes, ah, left on Know Your Candidate, ah, could you expound more on this one, ah, part of your platform. You said you'd provide everything free for everyone who voted for you. First of all, could we ask you how you would determine or, ah, will determine who voted for you and who didn't?

A. Ah, well, when I first started the campaign, I was buying votes for $12.50 a piece, ah, also, we spent, ah, most of our campaign contributions in paying off people who, um, do the vote tabulations at the various precincts and this is expensive and there's very little time left to solicit ah, campaign contributions, but for those of you who have an extra five or six thousand laying around the house, why send it on in to me, ah, because I can sure use the money, and, ah, I don't mind disclosing on my financial statements that, ah, money spent on campaign contributions goes into my, to line my pockets. I mean, hell, ah, I can use the money as well as anyone, y'know, and on a tax free basis, I think that it'll be even more advantageous. Ah, another thing that, ah, I'd like to give a little more data on, ah, to those of you listening out there in radio land, is the, ah, electronic mind control—electronic mind control—ah, one of the slogans that is, ah, probably more than anything else's, helped to put me over the top and some of you may already be fairly familiar with it is "blessed is the state whose Governor is Wonderful Russ" and another one that, ah, I get calls for, ah, two or three calls a minute coming in; the switchboards are just constantly jammed, is "blessed is the state whose Governor is Wonderful Russ."

Q. Okay, Russ, ah, then what would happen—you said you'd provide everything free, now this money would come out of your pocket to those who voted for you?

A. Not necessarily, Joe. You see, one of the things, once we secede from the Union, and we're collecting for foreign aid, I, I think you can see where we'd have an abundance

of money, ah, plus I intend to fire the state legislature and ah, I'm not particularly interested in a legislature I can work with, I'd just as soon not even have one. See, quite frequently, the Governor will want to back a particular piece of legislation and the legislature opposes him. Well, without a legislature, it will simplify things where when some special interest group wants me to back a particular piece of legislation, it'll make it considerably easier to ramrod it through.

Did you have another question here?

Q. Ah, okay, how would you propose to first secede from the Union?

A. Just do it. Y'know, just do it. Ah, this is one of the problems with life today, is people want to plan out this, plan out that—what about this, what about that, just do it. It's really very simple.

Q. Okay, what would happen to those whose—ah, who did not vote for you in the upcoming election, in your opinion?

A. Well, I don't really think it's a matter of my opinion, ah, I'm not, ah, I'm a very benevolent person, I've walked with kings, yet I've never lost the common touch, Joe, ah, I'm not a vindictive person, ah, gosh, no, I mean, ah, these people would be permitted to live here in the state, ah, within weeks after taking office, I plan to release information that will completely eliminate, ah, heart disease, cancer, tuberculosis and the heartbreak of psoriasis from Arizona. There will be no more sick people in Arizona. I've got a number of innovative ideas that have never before been brought up in an election.

Q. What do you think the major problems in the State of Arizona are?

A. Well, if you'd take for instance the overcrowding of hospitals, the basic problem is sick people. Ah, there's just too many sick people. You get rid of the sickies and you have more room in the hospital, you see? You just take a look at that, ah, for example, you go into any hospital today and they talk about the, ah, lack of available space in terms of their rooms. Well, it's sick people that are taking up that space. Get those sickies out of Arizona and we'll have ample room in any hospital in the state.

Q. How do you propose to do that?

A. Just ship 'em out. Just ship 'em out. Texas is a big state, Alaska's a big state, ah, speaking of Texas, I've got reason to believe that we're gonna have some trouble with Texas, I think they've got plans to try to attack us in the night and I'm going to name the, ah, zeppelin the official transportation ah, for all state employees, including myself, and if Texas attempts an air attack during the night, ah, I will load the entire state population in zeppelins and just take off.

Q. A few years back, quite a few, as a matter of fact, several states attempted to secede from the Union and, ah, a war was waged, ah, in, ah, in America. Do you think that, ah, could possibly happen?

A. No, not in this instance. You see, that's another thing I'm going to do is eliminate wars and I don't mean just for Arizona. I'm going to eliminate all wars on the planet once I'm Governor, because, ah, you see, the Governorship to me, and you can be rest assured that I'm going to do a good job as Governor, when the old ways no longer give life meaning, elect "Wonderful" and live the life divine. You can rest assured that I'm going to do a good job as Governor, because I plan to run for President after elected Governor and I *have* to do a good job so I'll be able to stand on my record as Governor, just like I'm standing on my record *now*.

Q. Okay, we have about 1 minute left, is there anything else you'd like to say to the voters?

A. Well, yes. You're not going to see my name on the ballot when you go in election day. It is imperative, if you care about freedom, if you care about democracy, if you care about yourselves and your families, and the future of this nation, write in the name Wonderful Russ Shaw, that's S-H-A-W. Write that name in, cast your vote for freedom.

Q. Okay, I'm sorry we're out of time right now. We've been talking, ah, to, ah, Wonderful Russ Shaw, independent write-in can—candidate, that is, for Governor.

This is Joe Bailey for Kool News.

NORWEGIAN-AMERICAN DAY

Mr. BURDICK. Mr. President, I am most proud to join with 3 million Norwegian-Americans to celebrate Norwegian-American Day today, October 9.

Forty-seven Norwegian emigrants landed their sloop, the *Restaurationen*, in New York Harbor 150 years ago today and began a flow of Norsemen and women that reached well over 1 million people in the second half of the 19th century. These immigrants brought their traditions of honesty, hard work, and courage to our shores and applied them to the settlement of a cold, but abundant land. Today, 80 to 90 percent of their descendants still live in our rural areas and continue the agricultural tradition that has made America the breadbasket of the world.

I am very proud that so many of these fine people chose to settle in my State of North Dakota. Our telephone books are full of Olsons, Andersons, and Johnsons, and they have contributed much to make North Dakota all that it is today. Their industry, character, and love of the land have made our State a richer and better place.

As the United States moves toward our Bicentennial, it is most appropriate for us to commemorate the importance of 1975 to those of Norwegian descent. For this reason, I have asked Senator HUMPHREY, whose State of Minnesota has benefited from this immigration almost as much as mine, to be added as a cosponsor of S. 1520, a bill to provide for the issuance of a special commemorative stamp honoring the beginning of Norwegian immigration.

The Norwegian Government has already issued commemorative stamps and coins honoring the Norwegian-American sesquicentennial, and Norway's King Olav V is now in the United States to join in the festivities. A commemorative stamp would be an excellent way for our Government to join this celebration and highlight for all Americans the great contributions our Norwegian-Americans have made.

COMMISSION ON THE OPERATION OF THE SENATE

Mr. GARY HART. Mr. President, I wish to take this opportunity to join my colleagues in welcoming the announcement yesterday of the appointment of 11 distinguished Members to the newly created Commission on the Operation of the Senate. I heartily congratulate my colleague and friend, Senator CULVER, for his efforts in bringing about this worthy and promising enterprise, and commend the Senate leadership for giving it the full support it deserves.

The U.S. Senate, being perhaps the most important deliberative institution in the world, faces daily the awesome burden of providing the wisdom and direction in determining the course of our Nation. What we do in this Chamber affects not only the lives and destinies of our own people, but often those of peoples beyond our borders as well. I need not remind my colleagues, many of whose service and contributions during their long and distinguished careers in this body far exceed my own, of the magnitude of this responsibility.

It is essential, therefore, that every effort is made to recognize the problems and weaknesses which restrict the ability of this vital institution to meet these obligations. I am sure none among us would deny that they do exist, and that the need for a careful and thorough investigation for this purpose is long overdue. It is noteworthy and all the more commendable that the junior Senator from Iowa was able to identify and address this need so early in his tenure in this body.

We all await the findings of this unique advisory task force, in the hope that its important work will enable us to become better equipped to adequately address the enormity of the job we have chosen to undertake. I pledge my full cooperation to the members of the Commission in the course of its endeavors and urge my colleagues to join in this effort.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Mr. TOWER. Mr. President, hearings are now being held before a subcommittee of the Committee on the Judiciary on the extension of the authorization of the Law Enforcement Assistance Administration, an agency of the Department of Justice.

The LEAA and its programs to assist State and local law enforcement and criminal justice agencies have been in existence since 1968.

LEAA funds may be used in a variety of ways. For example, police forces, courts, and correctional activities as well as a number of activities which may only have an impact on potential crime in a State benefit from LEAA programs. Crime prevention and law enforcement activities, as well as programs designed to bring the individual citizen into closer contact with the policy agency, the prosecutor's office, and the courthouse are supported by LEAA.

The program has worked well. The fruits of the LEAA approach are now being recognized throughout the country.

During its 7 years of existence, LEAA has provided funds and technical assistance to approximately 40,000 law enforcement and criminal justice agencies. More than 80,000 grants have been made by LEAA.

There have been those who have carped that LEAA programs are a waste of the taxpayer's money and that LEAA has made errors in the administration of its duties.

Mr. President, to be sure, LEAA or any other Government agency for that matter, is not perfect. But the mistakes have been miniscule in comparison to the magnitude and scope of this program, and they have been corrected, as they made or make their appearance.

If anyone has doubts about the effectiveness and the value of the LEAA to State and local government, he should be present at the Judiciary subcommittee hearings to listen to the witnesses testify on their actual experiences with the program.

I would like to call the attention of my colleagues to the testimony of Mr. Carol S. Vance, of my home State of Texas, as given on Thursday, October 9. Mr. Vance is district attorney of Harris County—Houston, and a past president of the National District Attorneys Association. He has had a long and distinguished career as a prosecutor and is very familiar with law enforcement needs and problems.

His assessment of LEAA's role and operation is right on the mark. He says:

One of the best features of LEAA is the block grant concept under which it operates which puts the ultimate decision-making responsibility on the shoulders of the state governor. No prescribed, uniform solutions are arbitrarily sent down from a central government. The philosophy is simple—and accurate. Crime is a local problem, best dealt with at the local level.

This point cannot be stressed enough. Police powers are clearly the responsibility of the States. By creating LEAA, the Federal Government was not assuming from States and localities responsibility for law enforcement.

One of the key roles in the law enforcement system is played by the prosecutor. Mr. Vance told the subcommittee about the peculiar problems facing the prosecutor's office and how LEAA is helping solve those problems:

Unlike those who enter into a career in law enforcement or the judiciary, generally the prosecutor's office is a training ground for lawyers fraught with low pay and an economic situation that causes the prosecutor to have to engage in private practice. Even where this is not allowed, such as my staff, the pay and the resources are sadly lacking.

But, gentlemen, I am pleased to say as one who considers himself a professional prosecutor (eight years as a trial Assistant District Attorney and 10 years as a District Attorney) that things are changing, and progress is being made. The LEAA has played a very significant role in this greatly needed evolutionary process.

In his testimony, Mr. Vance detailed the valuable assistance provided at all levels of law enforcement by the LEAA. He gave LEAA high marks for its programs and leadership in the criminal justice system.

In conclusion, Mr. Vance said:

Perhaps you see the Law Enforcement Assistance Administration from the top, in terms of huge sums of money expended on projects with complicated bureaucratic names. I am certainly not familiar with all LEAA projects, but as a prosecutor with a tough challenge, I see LEAA as the type of agency that lets me keep my independence and local identity, but assists significantly in progressive programs that will help reduce crime. The most creative yet practical things that I have been able to do in recent years have been due directly to LEAA grants.

Mr. President, so that my colleagues and others may view firsthand the accomplishments of LEAA, I ask unanimous consent that Mr. Vance's testimony before the Subcommittee on Criminal Laws and Procedures be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

WHAT LEAA HAS MEANT TO THE PROSECUTOR

(By Carol S. Vance)

THE PROSECUTOR'S DILEMMA

The true role of the prosecutor is probably the most misunderstood in the criminal justice system. Probably no average citizen can comprehend how the prosecutor must be all things to all people. His broad exercise of discretion as to which cases to accept in the system, which to investigate, which to present to a grand jury, which to divert and which to try, covers a breadth and depth unique to any role in public service.

The prosecutor is expected to be the hard belting adversary, but he must aggressively dismiss prosecution where evidence is insufficient or illegally obtained. He must work closely with the police and other governmental agencies, but he must also investigate complaints against the police and allegations of public corruption against the same government agencies. He finds himself in the role of investigator, the role of lawyer, and the role of judge as he engages in plea bargaining and delicate decisions such as seeking the death penalty or deciding not to prosecute a case. His independence is assumed, but a good prosecutor will reflect the priorities of his community as he directs his limited resources and exercises his broad discretion.

The prosecutor must be responsive to the people he serves. He must work closely with all local agencies as he is at the hub of the criminal justice system, and he must understand the needs of his constituents.

From the nature of this challenge, two truths about his office emerge:

(1) The public prosecutor must remain local in nature to be effective.

(2) The prosecutor in America today has not obtained the resources or degree of professionalism that his responsibilities deserve, and greater efforts must be put forth to remedy this situation.

Unlike those who enter into a career in law enforcement or the judiciary, generally the prosecutor's office is a training ground for lawyers fraught with low pay and an economic situation that causes the prosecutor to have to engage in private practice. Even where this is not allowed, such as my staff, the pay and the resources are sadly lacking.

But, gentlemen, I am pleased to say as one who considers himself a professional prosecutor (eight years as a trial Assistant District Attorney and 10 years as a District Attorney) that things are changing, and progress is being made. The LEAA has played a very significant role in this greatly needed evolutionary process. Therefore, I would like to zero in on two specific areas:

(1) Tell you what LEAA is doing for the local prosecutor nationally, statewide, and locally.

(2) Explain why this assistance needs to be substantially increased to do the job.

With the hope that my comments will be 100% credible, I will limit my observations to those programs directly affecting my office and the people of my community.

NATIONAL PROGRAMS ASSISTING LOCAL PROSECUTORS

Crime in America has grown to be an extremely mobile and scientifically equipped organization, not to mention being highly organized. To meet the attack of this insidious segment of our society which seeks by unlawful means to exploit its fellow citizens, the prosecutors of America also needed to organize. This was done in the 1950's, and since that time the National District Attorneys Association has served as a medium through which prosecutors can meet and exchange ideas.

During the fiscal year 1974–75, total receipts for the NDAA came to $632,070. Of this total, $327,322 came from LEAA. You can see that whatever the NDAA contributes to the nation's prosecutors is due in great part to the LEAA. Among the services offered by the NDAA are an Amicus Curiae Bureau. The Association submits amicus briefs in cases that involve major issues of law enforcement and the prosecution function. These briefs are filed in the United States Supreme Court.

One of the most important functions of the NDAA is educational, keeping prosecutors abreast of changes in the law, of technology, of management techniques and trial tactics. LEAA through block grant funds to the states enables the new prosecutors, or the specialist or the old hand to attend meetings and conferences. The NDAA has sponsored drug conferences, organized crime conferences, conferences in juvenile justice, conferences for newly elected prosecutors, and police-prosecutor conferences among many others that help us better understand our role and our duties.

The NDAA sends out a bi-monthly magazine, "The Prosecutor", which includes Association news, a "Cases, Commentaries and Briefs" section, and articles by leaders in the criminal justice system. NDAA also publishes and distributes specialized "how to" manuals to help the prosecutor in his day to day problems. The subjects range from specialized areas in the criminal law such as search and seizure, to the newest developments in criminal law administration. There are also audio tape cassettes, training films, and drug films available.

In recent years, the role of the NDAA has been greatly enhanced and expanded thanks to grants from the LEAA. The NDAA has received four technical assistance grants over the last three years which have gone to the management, evaluation, and contracts division. In 1972, the Association was awarded its first Technical Assistance grant. The purpose of the grant was to provide management evaluations for prosecutors' offices by utilizing the expertise of practicing prosecutors. This concept has been nurtured and enhanced through out the duration of the Project. At absolutely no cost to the local prosecutor, the Association is able to provide management studies for prosecutors' offices. The great trial lawyer often is a novice administrator in desperate need of help.

Another project which is now completed was funded by the LEAA. This was our National Law Student Internship and Placement Program. The purpose of this program was to encourage superior law students to pursue careers in the criminal justice system. Selected speakers from the NDAA spoke at over 150 law schools, and the result was that there were over 2,000 applications for 100 summer internship programs. The unquestionable success of this program has been most encouraging.

Funded by another Law Enforcement Assistance Administration grant, the NDAA has recently initiated a project to provide assistance to working prosecutors in developing standards and goals. Because of variations in prosecuting offices throughout the nation, NDAA has categorized the district attorney's offices into six homogeneous groups according to 21 external factors, including case load, population, office staff size, etc. The standards are not utopian though some may take years to accomplish. Overall they are something to strive for. It is expected that

the standards developed by this project have the potential of having the most far reaching success of any project which LEAA has effected. Again we strive for professionalization.

Another recent project made possible through an LEAA grant has been the establishment of a Commission on Victim Witness Assistance. This Commission has eight field offices where various forms of ways to aid victims and help them fulfill their role as successful witnesses are being tried. The Commission has also distributed public information materials including a brochure, "A Project to Help the Victims of Crime", another brochure, "Sixteen Ideas to Help District Attorneys", "Victims Rights" Wallet Cards, "Victims are People" Buttons, and brochures entitled, "Criminal Justice Improvement Program".

Although my office is not in this particular program, with the stimulus of these examples and the concrete suggestions offered by the written literature, I am planning to start a program in this area, and I feel sure that many other prosecutors who are not actually receiving money for pilot programs are thinking in terms of working such programs into their budgets now that the seed has been planted by this LEAA funded project. Again, this demonstrates the use of ideas on a national scale to assist the local prosecutor.

Finally, at the national level, we have the National College of District Attorneys, founded in 1969 for the purpose of providing postgraduate education and training to public prosecutors. Since that time, with the financial support of private foundations and the LEAA, to the tune of some $631,815.13 annually, the program of the College has grown considerably. I have had the privilege of serving on the Board of Regents and feel that the College has made great contributions to the training of prosecutors whether they have been District Attorneys for 20 years, have just passed the Bar, or are somewhere in between.

For several years now the College has offered a three-week course in the summer, called a "Career Prosecutor Course." This course has become more in demand every year, and this past summer the College offered two sessions. I have sent several of my Assistant District Attorneys to the course each year and have found it well worth their time. We need to instill professionalism in the prosecutor and offer career incentives so that he will not serve in this capacity for a year or so when he first graduates from law school, and then go on into private practice just when he is becoming a real asset to the office. The courses offered by the NCDA have encouraged longer tenures on the part of the prosecutors who have attended them, and the savings to the State here can hardly be calculated.

The College also offers courses for Executive Prosecutors, new prosecutors, and a number of three to five-day seminars on topics of mutual concern. A copy of this years programs is attached. Recently they expanded to provide a bibliographic service on resource materials for the prosecutorial community.

LEAA AT WORK AT THE STATE LEVEL

One of the best features of LEAA is the block grant concept under which it operates which puts the ultimate decision-making responsibility on the shoulders of the state governor. No prescribed, uniform solutions are arbitrarily sent down from a central government. The philosophy is simple—and accurate. Crime is a local problem, best dealt with at the local level.

Our Governor, working with a capable staff and an Advisory Board of which I am a member, has awarded 180 grants to local prosecutors since 1970. These grants have been the result of grassroots planning, with each region detailing information on crime in its area, the capabilities for coping with crime, and projected solutions.

Also at the state level our Texas District and County Attorneys Association has received $400,000.00 annually, and every cent of this money has been spent on prosecutors. The money has enabled us to get together to exchange ideas and has been used for training and continuing education programs for prosecutors. There is also a stipends program which has allowed several hundred prosecutors to attend various seminars throughout the United States.

Prosecutors were able to get together several years ago when Texas was writing a new Penal Code to make considerable input into this Code. This Penal Code has been in effect for almost two years now and is proving to be highly workable and quite a milestone in law reform in Texas. Its success is due in no small part to the fact that prosecutors, the most knowledgeable practitioners of criminal law, were able to give their time and ideas to its creation.

Along similar lines, the hundred-year old Texas Constitution, an antiquated document which has been amended piecemeal for years, needs a complete revision. Our court system is rigid and needs reorganization. Texas prosecutors have been able to get together and make considerable input into the new Judicial Article for the proposed Constitution.

Prosecutors throughout the state have also met to work out standards and goals to improve the profession within our state.

The Texas District and County Attorneys Association has been active in the publications area, including an Extradition and Rendition Manual, a Grand Jury Handbook, a Juvenile Procedures Manual, a Controlled Substances Manual, a Handbook for Law Enforcement Officers, a Felony File Folder, indictment forms, motion to Dismiss forms, and a Civil Rights Handbook. The Association sends out a monthly newsletter containing comment on key decisions from the Court of Criminal Appeals (Texas' highest court in criminal cases), summaries of new laws of interest to prosecutors, and ways in which problems have been handled in various jurisdictions.

In addition to arranging and coordinating the training conferences, development conferences and administering the prosecutor stipends program, the staff of the TDCAA provides legal and technical assistance to prosecutors throughout the State upon request, and writes and files amicus curiae briefs with the Texas Court of Criminal Appeals in cases of vital interest to prosecutors.

Despite what I have said, it is next to impossible to describe the value of LEAA to Texas prosecutors through the Texas District & County Attorneys Association because the primary accomplishments are intangible. Without question, the morale, self image, and ability of Texas prosecutors have improved immeasurably as a result of LEAA funds. This has truly been the seed money so to speak so that we might grow in our profession.

LEAA ASSISTS MY OFFICE AT THE LOCAL LEVEL

The Law Enforcement Assistance Administration has granted money to many, many worthwhile projects here in the Houston area, to probation work, to rehabilitation programs, to crime prevention projects, and to other district attorneys. I would like to be more specific about the help which our office has received since I am most familiar with those projects.

Houston is one of the most rapidly growing metropolitan areas in the United States, and the crime rate is unfortunately rising over our entire country. Combine these two facts and you can visualize the growing pains faced by my office in the last five years. Several years ago we had a management survey financed by LEAA and this invaluable help enabled me to reorganize the office to accommodate a staff of over 100 assistants which had more than doubled since I became District Attorney in 1965.

Based on recommendations in the management survey, we applied for a second grant so that we could implement the suggestions made in the survey. Through a screening and management grant, I was able to hire an Administrative Director to supervise the hiring and direction of my burgeoning staff. I also added a professional writer who has written or edited three office manuals and numerous publications which are offered to the public free of charge giving them information on subjects such as consumer fraud, how to serve as a witness, crime prevention to businessmen and citizens, pollution, and drunk driving. We constantly provide technical and practical publications to police concerning the penal code, search and seizure, recent decisions, and a myriad of information. The Screening and Management grant supplied us with money for sorely needed equipment and with funds to supply the public with the informational brochures.

One of our most important grants has enabled us to set up an Organized Crime and Frauds Division. We have seven lawyers who are freed from the routine trial demands of handling several cases a day. These attorneys handle the sensitive, complicated, and often lengthy investigations needed to bring organized criminals, and white collar embezzlers to trial. These lawyers have become our office experts in election frauds and have handled several unusual murders, requiring more than the normal amount of case preparation. One prosecutor worked exclusively with the Drug Enforcement Administration program before it was phased out in Houston, and this person still works exclusively with drug cases. This grant, the first of its kind in the United States, was copied in Boston and Dallas and other cities due to its success.

We are one of 15 offices participating in the National District Attorneys Association's Economic Crime Project Center, funded through a grant from the Law Enforcement Assistance Administration. The purpose of this project is to increase the capacity and capability of local prosecutors to detect, investigate, and prosecute economic crime offenders. The national office has published "Economic Crime: A Prosecutor's Handbook", now in its third printing due to heavy demand. They offer us excellent workshops, and a highly specialized communication system. My Consumer Fraud Division has published a pamphlet on the subject, so that people will know how to avoid being a victim, and what to do if they should fall victim to a fraud. The Division handles hundreds of calls a month and advises, investigates, or files charges as the facts demand. So far this year over $400,000.00 restitution has been made, and most of this is small sums to people who could not afford to be cheated of even the smallest amount of money.

Our County has been the recipient of a grant to computorize information so that it can be obtained as needed. If information is desired on a previous trial of a defendant, it is scarcely encouraging to know that the facts can be found in a file at the county warehouse several miles away. Computorized information is essential.

We received another grant from LEAA which went exclusively toward the printing of a booklet for school children on Texas Criminal law and procedure. Classroom sets of these booklets were distributed in all the schools in the county. Since they were written at a secondary school level, they have been overwhelmingly popular with adults as well, and we have distributed almost 20,000 copies of this booklet to adults who have seen the booklet and requested copies.

I only wish that I had the funds to print even more copies.

Our latest grant is one which truly excites me. Ours was the first of several District Attorney's offices in the country to receive a discretionary grant from LEAA to zero in on career criminals. I am grateful to the President, the Justice Department and LEAA for their leadership in tailoring this concept to our local needs and priorities. Our Career Criminal Project has been operational since July 1. Felonies come in all shapes and sizes. Some persons are a far greater threat to society than others. Up to this time, all have been handled the same, in order. Too often in our seriously overcrowded system, the career criminal who knew the ropes managed to slip through and avoid punishment all together. In this new program, we are screening every new charge brought in, examining the previous record in detail, and considering the nature of the present crime. If the crime is serious and the record of the accused suggests that he is dangerous to society, he is admitted to our Career Criminal Program and given a closely monitored personal escort through the system. Most crimes in this country are committed by the repeat offenders; many, by persons who are out on bail while waiting trial on other charges. We are zeroing in on these persons and closing the loopholes for their escape. I am very optimistic that statistically this should make a dramatic impact on the crime rate, and from a practical standpoint, it should make our streets safer.

These are some of the benefits we have already derived from LEAA funds, but needs are forever cropping up and we are hoping now to get money for three "annex" courts. Our jail is pathetically overcrowded, with human beings packed in together, many with no bed to sleep on. Over half the people in the jail are there because they are waiting trial. We would like to have the money for courts which would give priority to cases of persons in jail. These people deserve to have their cases heard as quickly as possible rather than waiting the five months which is now the average delay.

CONCLUSION

Perhaps you see the Law Enforcement Assistance Administration from the top, in terms of huge sums of money expended on projects with complicated bureaucratic names. I am certainly not familiar with all LEAA projects, but as a prosecutor with a tough challenge, I see LEAA as the type of agency that lets me keep my independence and local identity, but assists significantly in progressive programs that will help reduce crime. The most creative yet practical things that I have been able to do in recent years have been due directly to LEAA grants.

Gentlemen, my only criticism of LEAA funding is that it has not gone far enough with the courts and prosecution functions. But, this is not the fault of LEAA in Washington. This is the fault of those State councils that need to reassess their priorities. Even so, I like the block grant approach. Revenue Sharing will not be used, in my opinion, for criminal justice to any great degree. I have a deep fear of any more massive bureaucratic agencies in D.C. telling me how to respond to the people of Harris County—even if they tie money at the end of their poles. But I like the LEAA approach—that is, money specified for criminal justice without imposing further stipulations on local government. All in all, LEAA should stay in business, to help assist the prosecutor get to that place of professionalism and resources needed to accomplish his responsibility, and to help solve the number one internal problem in the United States today—crime.

SURFACE MINING LEGISLATION

Mr. HANSEN. Mr. President, since the Senate last considered surface mining legislation in title II of S. 391, the Federal Coal Leasing Amendments Act of 1975, Western States have voiced their feelings concerning national surface mining legislation. At the Western Conference of State Governments in Anchorage, Alaska, on September 2, 1975, chairman John C. Ostlund of the Committee of Mines, Minerals and Industrial Development in the Wyoming State Legislature, introduced a resolution which, among other things, resolved that—

The federal government should preserve the responsibility for mined land reclamation to the states by not enacting national surface mining legislation which would preempt powers from the states and require plans to be approved by a federal agency.

This resolution not only passed unanimously at the Western Conference but was also introduced and passed without a dissenting vote at the Five-State Conference on September 29 in Lincoln, Nebr.

This resolution emphasizes that 32 States have already enacted legislation regulating reclamation on mining operations and since the conditions for successful reclamation of lands vary from State to State, the proper course of action can be best determined in the State. I would observe there is great merit in this statement. I had strong reservations about Federal legislation, in part, because I felt this consideration was not sufficiently recognized. In fact, I doubt whether any Federal legislation, no matter how carefully drawn, could incorporate the vastly different reclamation standards needed for varying parts of the country. Not only does the topography differ, but soils and water sources differ considerably throughout the United States.

No one would controvert the Federal Government's ownership of its coal and its right to develop this coal. However, as the resolution states:

Each state has a direct responsibility for the health, safety, and welfare of its people.

Recognition of this power led Senator Metcalf and me to introduce an amendment to H.R. 25, the Surface Mining Control and Reclamation Act of 1975, which provided that—

Where Federal lands in a State with an approved State program are involved, the Federal lands program shall, at a minimum, include the requirements of the approved State program.

With the advent of comprehensive State laws, which are designed to protect the land and water within a State, the need for Federal regulation is most questionable. This resolution indicates 32 States have already made such laws and indicates the Western States are serious about exercising their responsibilities to make proper controls.

Mr. President, I ask unanimous consent that both resolutions be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

STATE RESPONSIBILITY IN SURFACE MINING

Whereas the federal government has traditionally relied principally upon the police powers of the state for the management of mineral developments on public and private lands and each state has a direct responsibility for the health, safety, and welfare of its people; and

Whereas some 32 states have already enacted legislation regulating reclamation of minerals and mining operations; and

Whereas the conditions for successful reclamation of lands vary from state to state and the proper course of action can be best determined in the state: Now, therefore, be it

Resolved, That The Western Conference of the Council of State Governments, assembled this 2nd day of September, 1975, at Anchorage, Alaska, does hereby express that the federal government should preserve the responsibility for mined land reclamation to the states by not enacting national surface mining legislation which would preempt powers from the states and require plans to be approved by a federal agency; and be it further

Resolved, That the Western Conference of State Governments as well as the federal government should encourage the states to exercise their individual responsibility for proper control of reclamation by passing additional legislation, where needed, appropriate to the conditions in the state; and be it further

Resolved, That the federal government cooperate with the states by issuing regulations on federal lands which are maintained consistent with the needs and conditions of the state to the greatest extent possible.

STATE RESPONSIBILITY IN SURFACE MINING

Whereas, the Federal Government has traditionally relied principally upon the police powers of the State for the management of mineral developments on public and private lands and each state has a direct responsibility for the health, safety, and welfare of its people; and

Whereas, some 32 states have already enacted legislation regulating reclamation on minerals and mining operations; and

Whereas, the conditions for successful reclamation of lands vary for state to state and the proper course of action can be best determined in the state; Now, Therefore, Be It Resolved that the Five State Legislative Conference assembled this 29th day of September, 1975, at Lincoln, Nebraska, does hereby express that the Federal Government should preserve the responsibility for mined land reclamation to the states by not enacting national surface mining legislation which would pre-empt powers from the states and require plans to be approved by a federal agency; and be it further

Resolved, That the Five State Legislative Conference as well as the Federal Government should encourage the states to exercise their individual responsibility for proper control of reclamation by passing additional legislation, where needed, appropriate to the conditions in the state; and be it further

Resolved, That the Federal Government cooperate with the states by issuing regulations on federal lands which are maintained consistent with the needs and conditions of the state to the greatest extent possible.

A PRESCRIPTION FOR ECONOMIC RECOVERY

Mr. MUSKIE. Mr. President, I ask unanimous consent that my remarks to the National Tire Dealers and Retreaders Association's Convention October 7 in Boston be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR EDMUND S. MUSKIE

It's a pleasure to be here today to give you my perspective on the American economy. It's also a great pleasure to be here with this association of businessmen.

I spend most of my days in Washington, where we deal with the economy on an abstract level. Sometimes you can get so wrapped up with the abstractions—macroeconomics, capital formation, disintermediation, and so forth—that you can forget what the economy really is all about.

And that's people like yourselves working hard, watching your costs, and planning a future for yourselves and your families. When things go wrong—when government policy starts to conflict with sound economics—then you're the first people to know.

You know what the problems are already. You know what the priorities must be. You just need to know what the solutions are going to be.

I think you will agree with me that the nation's number one priority is to get this economy back on the road to expansion and full production.

The economy right now is like a sick man who's just come out of intensive care. The worst is over for now, but recovery can be slow and painful, and there's no guarantee that he won't have a relapse if the treatment isn't the right kind.

The vital signs are mostly good right now:

Unemployment is down to 8.3 percent in September, a good improvement from the 9 percent at the beginning of the summer. Since March, we've added 1.5 million more jobs to the economy.

Industrial production has increased at nearly a 12 percent annual rate since May, and is likely to stay strong for the rest of the year.

Confidence is returning to consumers. According to one estimate, about 8 percent of families plan to buy a new automobile in the next six months.

There has even been some improvement in the home building industry, with housing starts 14 percent higher now than in June.

But the patient isn't ready yet to get out of bed. There are still some vital signs that could mean a relapse:

After slowing considerably in the first half of 1975, prices are advancing again—not because of excess demand or labor costs but because of food and energy prices.

Interest rates are moving back up as the Federal Reserve's tight money policy has slowed down money supply growth. The prime rate has returned to 8 percent, a one-third increase since this Spring.

And most important, there are still eight million Americans out of work, one million more discouraged workers, and three million who are working part-time.

When you look at all the vital signs—both good and bad—it is clear that the economy will keep moving up for the rest of this year.

However, there is a very real possibility that 1976 won't be as good. Recovery could be stalled—or even turn down again—by mid-year, and that would mean more inflation, more unemployment, and more federal deficits.

But the fact that the economy has turned around is very encouraging, for it demonstrates that Congressional policies have been on target, that our independence from Administration policy—our insistence on strong economic stimulation—has paid off for the American people.

We saw the dangers of recession when the Administration told us that inflation was the only problem.

We acted to reduce the effects of unemployment and keep the economy moving when the Administration told us to put the brakes on.

Over the Administration's objection, we insisted on tax cuts sufficient to give a sharp boost to consumer demand which turned around the long slide down.

And when the Administration urged Congress to enact a hastily-devised energy policy, we held back. We prevented a severe shock to consumer pocketbooks. That would have happened at the worst possible time.

Now, I'm not here today to tell you that everything Congress has done is right, and that everything the Administration has done was wrong. There are no saints or sinners in making economic policy, and people who reduce our complex problems to that level do a disservice to the rest of us.

But what Congress has accomplished—and it's been hard, believe me—is to regain its partnership in making economic policy. Over the years, Congress gave much of its budget and spending authority to the President. Those were years when we thought that anything to make a strong Executive Branch even stronger was good for the country.

We learned an important lesson from those years. We learned about accountability—just like many of you have learned in your businesses—that without accountability, you're more likely to get bad decisions than good.

You know, there's nothing like having to face the voters every few years to make you stop and think about the human consequences of your decisions. That's why Congress had to start taking back the purse strings.

We began that process with enactment of budget reform. We restricted the authority of the President to impound appropriated funds and provided ourselves new resources to get spending and revenue targets in line with economic conditions.

So far it's working. And much of our success with starting the recovery and gaining control of spending has been due to the new budget process.

It's allowed Congress to take a very thorough look at Administration proposals. and head off mistakes before they have an impact on the average citizen.

There won't be many more snow jobs on Congress, as long as this new system works.

That's been especially clear in what's happened about energy.

In February, the President proposed an energy program to cut imported oil within a year by a million barrels per day. He proposed an import fee of $3 per barrel, a $2 excise tax on domestic oil, and removal of all price controls on natural gas and oil. It was a classic, textbook solution—to make people use less, raise the price so high that they won't be able to afford as much as before.

It was also a very bad solution.

It would have been irresponsible—and disastrous—to take price controls off the 60 percent of our oil that is held at $5.25 a barrel, and let it rise to the market price of $11.50 almost overnight. It would have had a devastating effect on the cost of heating oil, the cost of electricity, the cost of gasoline, the cost of industrial fuels at just the time factories were already shut down and workers lined up for unemployment checks.

Now, Congress realized that. Our economists determined that the President's policy would increase unemployment by another million workers and inflation by another 3 percentage points.

So we said no to the President. Within 30 days of his announced policy, we extended the price controls until its expiration this Summer. We extended controls again, and this time the President vetoed the extension, and the veto was sustained.

He got the policy he asked for in February. But now he understands what we understood in February—that unless controls are there, the price of oil will wreck the economic recovery. That's why he agreed to extend controls until November 15.

We're in the process of working out a compromise with the President. And the likely result will be a gradual decontrol, stretched out over several years to let business build these costs into their plans, and let families adjust their household budgets.

Congress has fought all year to keep energy prices down. We're going to keep oil prices as low as possible now and in the long run.

We've been accused by the President, the oil companies, and much of the public of dragging our feet. But the fact is, we had the right policy all along.

We've pushed for energy conservation, and we've pushed for alternative sources of energy. America has as much coal as the rest of the world. We already can use it efficiently and cleanly. All we have to do is broaden its use commercially.

We can develop solar energy, oil shale, coal gasification, and oil on the outer continental shelf. These are the ways we can show OPEC nations that we won't allow our energy policies to be dictated by what they want to charge us.

But everything we do with energy must be in the overall context of economic recovery.

Congress has said that. While we held back a bad energy policy from taking place, we enacted a strong recovery program.

We expanded unemployment benefits, public service jobs, and public works projects to help people back on their feet.

Congress also knows that the key to recovery is in the private sector—to expand job opportunities with more consumer dollars and investment capital.

That private sector is expanding today. But we must remember that we've got a lot of distance to cover before we return to full employment. A slow recovery program could keep unemployment in the 7 or 8 percent range next year and the year after that.

Congress believes that's unacceptable. I know that's unacceptable. That's why we must adopt a national target of an eight percent real growth rate until we return to full employment.

Even then, that would take 2½ years to reach 5 percent unemployment. But with a flexible economic policy we can sustain that necessary growth.

The key to this will be cooperation between Congress, the President, and the Federal Reserve Board. We don't have that cooperation yet. The Federal Reserve, for example, has been tightening credit and slowing money growth, directly counter to the Congressional tax cut.

Clearly, we need more cooperation.

We must allow the money supply to grow—not at the 5 to 7½ percent rate Arthur Burns wants—but at 8 to 10 percent. Without that, small businesses and consumers will once again be crowded out of the credit market.

We must keep energy prices down, consistent with our duel needs of recovery and energy independence.

And, we must extend the income tax cut into 1976. We run the risk of stalling the recovery without this boost in consumer spending.

Now I would like to comment on President Ford's message of last night.

As I have said, you can make the case for a moderate tax cut now.

The Budget Committee's concurrent resolution of last spring contemplated that this year's tax cuts would be extended into next year to make sure we don't put the brakes on the economy just as it is beginning to recover. Most of the testimony before the Budget Committee during the last two and a half weeks has pointed in that direction—although both the President's Secretary of the Treasury, Mr. Simon, and Arthur Burns were

against extending the tax cut. Arthur Okun, generally viewed as a liberal economist, was for continuing the tax cut at present levels, but was frankly concerned that doing more might now overdo a good thing and stimulate more inflation.

Now the President's proposed cut is evidently larger than has been recommended to us.

Even if all the savings he wants for the *next* fiscal year occur, it still appears that his proposal will give the economy a significant added stimulus during the remainder of fiscal 1976. The inflationary consequences of that kind of stimulus will have to be weighed carefully.

As for the outlay side of the ledger, I don't think any of us doubts that there is a lot of money to be saved in Washington. I wouldn't be spending the hours and days I do as Chairman of the Budget Committee if I didn't believe that. There are too many bureaucrats and too many bureaus. There are lots of programs that could be more efficiently run. And it is our objective to see that they are.

But with prices rising every year . . . with eight to ten million Americans out of work, on food stamps and unemployment compensation and welfare . . . with the pressure for more and more defense spending—$28 billion in cuts is easy to talk about but hard to find.

This year the President proposed to save $17 billion. Here's what he proposed to cut: Medicare and Medicaid benefits, so that recipients would have to pay more for service . . . food stamps, so they would cost more . . . child nutrition and school lunches . . . cost-of-living adjustment for Social Security recipients who are hit very hard by inflation . . . and increases in veterans benefits. But he proposed an increase in defense spending over last year by several billion dollars, and this fall he has added a multi-billion dollar aid program for the Middle East.

It isn't spending the President objects to—provided it is Presidential spending. What he doesn't like is for Congress to change his spending priorities.

Last night the President did mention protecting the old, the poor and veterans. But it is worth noting that last time around he proposed to cut those programs which provided some protection for them against the impact of recession, inflation and higher energy costs which he seeks to make even higher.

To use the President's figure of speech, we also know a train wreck isn't the answer.

The economy has turned up, but there are going to be a lot of unemployed Americans for a long time who need the protection afforded by some of those programs the President would apparently like to cut. And renewed inflation is a threat we simply cannot underestimate.

A healthy economy, where people can work and take care of themselves, will cut the cost of recession-related and inflation-boosted programs, and eliminate federal deficits.

I know we can do it. This nation has all the resources—a skilled and productive labor force—the industrial capacity—natural abundance—and the management skills.

Now we need the cooperation and leadership to pull all these resources together—to restore confidence—and to get this country moving again.

THE JOB CREATION ACT OF 1975

Mr. GARN. Mr. President, today I am adding my name as a cosponsor of S. 2465, the Job Creation Act of 1975, introduced last week by Senator McCLURE. I am glad to take this action, because I think it represents an important departure in public policy in the United States, one that will eventually lead us back to a reasonable level of prosperity and sustained growth.

In recent years, Mr. President, it has become apparent that relatively few individuals in this country understand the basic mechanisms by which free people deal with one another. The science of economics has degenerated into name-calling, solidly based in ideology, but cut off from the practical experience we all have. Everyone knows that if he has something to sell, he will not sell if the price is too low; everyone knows that if prices are kept down artificially, we all rush to buy and shortages result.

And yet, even though we know all these things when they apply to our personal, specific case, we continue to act as though these "laws of economics" can be repealed by the Congress of the United States. We talk of price controls and rollbacks, when we know perfectly well what the results of these actions would be in our personal case, and we ought to know, from history, what would happen in the country at large.

Actions of this nature, taken over the last 40 years, have produced serious distortions in our economy, Mr. President, distortions which now threaten the continued prosperity of our people. At the present time, America suffers from inflation, declining production, and high unemployment. The unemployment rate stands at 8.2 percent; output in real terms fell 2.2 percent last year and was projected to decline even faster this year; inflation continues near 10 percent, and the people of my State feel that it will go much higher as Federal borrowing continues. These statistics are related, but if we are to improve them, we must understand which are causes, and which effects.

In the wake of the Keynesian revolution, it has become a commonplace of political rhetoric that a general increase in the amount of money in the hands of individuals will increase demand, thus encouraging production and putting people back to work. This theory is popular because it allows politicians to rationalize their spending schemes which are popular with the voters. The theory allows deficit spending, whereby the Government can indulge the voter's every whim without the pain of raising taxes. In theory the inflation which could result from this practice is a small price to pay for the low unemployment and increasing output.

The worst problem with this theory is that it does not work. We have tried it and tried it over the last 20 years, and it has not produced the stability and low unemployment its champions claim for it. In my view, Mr. President, it is time to abandon this model, as the economists are even now abandoning it, and strike out in a new direction. It is that that we hope to accomplish with the Job Creation Act of 1975, S. 2465.

This legislation does what very few acts of Congress have done recently: it encourages production. The theory which underlies it is the theory which identifies two kinds of spending, the productive and the consumptive. This theory was outlined in some detail in an important article in "The Public Interest," fall 1974, by Daniel Bell, entitled "The Public Household."

By definition, Government spending is consumptive, in that it does not produce goods. For instance, governments buy books, but they do not buy presses with which books can be produced. By contrast, private spending is very often productive. Of course, individuals buy candy for consumption purposes, but a significant proportion of the time, they forego eating candy to buy the pots, pans, and raw materials needed to increase the net supply of candy. As a recent editorial in the Wall Street Journal noted—

> Economic progress began on that distant day when a primitive grain-gatherer saw that if he did not eat all he gathered he could sow seed for a new crop.

The share of personal income which is taken from individuals and transferred through Government spending into consumption has now reached a critical point. Transfer payments are now nearly 40 percent of the Federal budget. Continuation of the present trends would result in half of the national income being taken by taxes in 1985; two-thirds by the year 2000. A more startling figure follows directly from these: A Joint Economic Committee study found that domestic private investment in the United States in 1973 was only 15.7 percent of GNP, as compared with 28 percent in France, 26 percent in Germany, and 37 percent in Japan. We have the lowest rate of capital investment in the industrialized world, and it is going down, not up.

The history of this Nation clearly shows that the path to prosperity is through increased production. With enhanced possibilities for capital formation and spending, entrepreneurs, acting freely, with the faith that they can produce something desirable, can go to work and increase the size of the pie we must all share. In our experience, the results of that faith have been the inventions and ideas which have led to the highest standard of living in the world. As a result of that standard of living, we are capable of assisting countless others to help themselves, and can minister to their needs when they do not.

Another result of the entrepreneur's vision is the creation of jobs, jobs in great quantity. As investment capital is put to work, the machines are built and the people are hired to work them. There is no way for a trained and willing labor force to remain idle while individuals have the means to put them to work. As surely as it is an illusion that Government can find them gainful employment, it is a truth that the private employer, be he big or little, can. This way lies the answer to our unemployment problem, not in public service jobs, even with the Government as "employer of last resort." In practice, it comes to be the employer of first resort all too often.

It is with the hope of returning governmental policy to a climate favorable to growth that I join in introducing S. 2465. Its enactment at this time would serve as a clear signal to the entrepreneurs and workers of the world that we are aware of the need for investment capital, that we are willing to overcome the prejudices against business which find their expression in Marxist rhetoric all over the world.

To return to the Wall Street Journal editorial, economic progress will be re-

sumed in this country on that day—hopefully not too far distant—when the Government realizes that if it stops eating up the substance of the people, the result will be the kind of productive jobs for everyone that we all want.

Mr. President, I ask unanimous consent that the editorial referred to be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Feb. 20, 1975]

CAPITAL

Economic progress began on that distant day when a primitive grain-gatherer saw that if he did not eat all he gathered he could sow seed for a new crop. Progress took a quantum leap when the first farmer saw that if he saved a surplus he could trade it for a plow. And today economic progress continues when an individual or society foregoes current consumption and invests the savings in ways that create more goods and services in future years.

In short, economic progress has always depended on capital, that which is saved from current consumption to lay a base for future production. Classical economics posits three factors of production—labor, land including all finite resources, and capital. Land cannot be expanded, and population growth adds not only more hands to work but more mouths to feed. Happily, capital can grow indefinitely.

A society increases its standard of living primarily by increasing the capital input relative to the labor input. A worker can enjoy a sustained increase in his standard of living only if he becomes more productive. And sustained increases in productivity come from supplying the worker with better tools, that is, by investing more capital. In a far from trivial sense, economic progress consists of capital formation.

The adequacy of capital formation, or alternatively of the savings that underlie it, tells a great deal about the future prospects of the economy. It is of course not easy to measure "capital," let alone "adequacy." Machine tools are obviously capital, but some economists cavil at the inclusion of housing. Education is obviously to some extent a capital investment, but is seldom included as such. "Adequacy" depends on a society's goals and other value judgments. But subject to such caveats, it's worthwhile to look at U.S. capital formation from a number of different perspectives.

A good place to start is with international comparisons. For reasons which we will discuss presently, the United States clearly lags behind most other industrial societies in both capital investment and productivity growth. While the OECD concepts used in international comparisons result in higher numbers than more common concepts, the trend is clear in this adaptation of a Treasury table:

INVESTMENT AND PRODUCTIVITY, 1960-73

[In percent]

	Average investment OECD concept [1]	Average annual production growth [2]
United States	19.2	3.3
Canada	22.4	4.3
Japan	33.4	10.5
France	24.9	6.6
Germany	26.2	5.8
Italy	21.4	6.4
United Kingdom	18.9	4.0

[1] Private investment plus government purchases of machinery and equipment for nondefense purposes, as a percentage of gross domestic product excluding defense expenditures.
[2] Output per man-hour.

One way to estimate whether this capital formation will be sufficient to future needs is to estimate the capital needs of various industrial sectors, and to compare this with the savings being generated. The New York Exchange has done this, and concludes that between now and 1985 there will be a capital shortfall of $650 billion, or 13% of capital needs.

Another way to judge adequacy is to look at capital investment per worker. This is the key to increased worker productivity, and hence to higher real wages and higher standards of living. In recent years the labor force has grown with exceptional speed, while savings and investment have grown only normally. In offering the following table in recent congressional testimony, Professor Paul McCracken remarked that the fall in investment per worker helps explain why even in the recent boom the economy did not push unemployment below 5%. "Our plant capacity was too small to offer the number of job opportunities required for reasonably full employment."

Direct business investment per worker

[1958 dollars]

1971–74	$41,000
1966–70	46,400
1961–65	55,300
1956–60	49,500

It is decidedly more comforting to look directly at savings and investment in the U.S. national income accounts. We continue to save and invest at about our historic rate. There was some falloff in 1974, probably because of the especially virulent inflation, but 1973 was an especially good year.

SAVINGS AND INVESTMENT AS PERCENT OF GNP

	Gross national savings	Gross private domestic investment
1974 to present	14.8	15.0
1973	16.6	16.1
1972	15.5	15.0
1971	14.4	14.6
1966–70	15.3	14.8
1961–65	15.6	14.9

The stability of the gross saving figure, though, masks some definite trends among its components:

COMPONENTS OF NATIONAL SAVINGS—PERCENT OF TOTAL SAVINGS

	1974 to present	1973	1963
Personal savings	37.0	34.7	22.0
Corporate profit [1]	8.2	12.0	18.0
Capital consumption allowances	57.6	51.7	58.0
Government surplus or deficit [2]	−2.8	1.6	1.9

[1] Undistributed corporate profits plus inventory valuation adjustment.
[2] Includes State and local government.

Obviously more saving has come from individuals, and less from corporate profits, which have been falling steadily as a percentage of gross national product. Individuals increased their saving rate to 8.2% of their disposable income in 1973 from 4.9% in 1963, and it is probably not realistic to expect such a rapid rate of increase to continue. Nor is it likely that the government will start running large surpluses. Any large future gains will almost certainly have to come through reversing the downtrend in the corporate sector.

Capital consumption allowances reflect the depreciation of existing capital; theoretically they are the amount necessary merely to keep the capital plant you already have. In the figures there is a bias toward overestimation, since at the end of the official depreciation period a machine may still have some useful life. There is also a bias toward underestimation, since depreciation is based on historic costs rather than replacement value. In periods of especially rapid inflation, like the present, the net effect is almost merely a sharp underestimate. Some of the personal savings and profits must be spent just to stand still.

Finally, note that government deficits come directly out of the savings pool. The low rate of savings in 1971 evident in table 3, for example, reflects last year's record peacetime federal deficit. The prospect of huge deficits for at least two years and probably beyond makes it highly unlikely we will be able to maintain our historic role of saving.

At the same time, it's clear that capital needs are going to increase. In particular, huge amounts of capital are necessary to buy clean air and water. While this clearly is socially valuable, capital spent for such items does not add directly to worker productivity. Unless additional capital is somehow generated, we will pay for clean air and water with slower economic growth.

Some people feel it would be just fine to sacrifice growth to finance clean air and the transfer payments that account for so much of the growth in federal spending. But they have not studied the implications, for much of our projected future growth is already committed to worthy social tasks.

This is most evident in the Social Security System. The whole system is built on the premise that real economic growth will match certain historic norms. Otherwise, workers in future generations will not be able to pay retirement benefits when the current generation retires. The existence of Social Security, for that matter, almost certainly tends directly to reduce savings by reducing the necessity to prepare for retirement. This effect has to be offset by incentives to have elsewhere in the system.

Which brings us back to the international comparisons. To some degree, the low U.S. savings and investment rates reflect its already high state of development. Savings and investment are marginally more profitable and thus attractive in less-developed societies. But it is also true that other societies have tax systems that encourage savings.

The U.S., to take one example, has the most stringent treatment of capital gains; some European nations do not tax them at all. The U.S. also has especially stringent provisions for depreciation. Some other nations have lower corporate tax rates, or special provisions for dividends. Savings could be increased by tax reform in these directions.

Such reforms would in the first instance tend to benefit those with above-average incomes, since they are after all the people who do most of the saving. Somehow in this society the very words "tax reform" have come to connote opposite measures, those that increase the tax load on savings and reduce it on consumption. Congress is at this very moment making tax cuts the bulk of which will go to non-savers. This is in the name of helping the poor, but the poor will not be helped by slower economic growth.

Sometime after the primitive grain-gatherer made his epochal discovery, and perhaps even after the first farmer learned to trade his surplus, another great but unrecorded man thought up a tale about a goose that laid golden eggs.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. S. 2310.

Mr. ROBERT C. BYRD. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The amendment of the Senator from Massachusetts, No. 963.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR PERIOD FOR ROUTINE MORNING BUSINESS ON MONDAY, OCTOBER 20, 1975

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate reconvenes on Monday, a week from this coming Monday, after the two leaders have been recognized under the standing order there be a period for the transaction of routine morning business of not to exceed 45 minutes with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 2310, NATURAL GAS EMERGENCY ACT OF 1975, ON MONDAY, OCTOBER 20, 1975

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the conclusion of routine morning business on Monday, October 20, 1975, the Senate resume consideration of the bill S. 2310.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I propound the following unanimous-consent agreement.

I ask unanimous consent that with respect to S. 2310, a final vote occur thereon no later than 12 o'clock noon on Friday, October 24; provided further, that paragraph 3 of rule XII of the Standing Rules of the Senate be waived; provided further, that on Monday, October 20, when the Senate reconvenes, the pending amendment by Mr. KENNEDY be temporarily set aside until the hour of 2 o'clock p.m. on Tuesday, October 21, and that, in the meantime, on Monday and up until the hour of 2 o'clock p.m. on Tuesday, other amendments to S. 2310, or motions in relation thereto, be in order; provided further, that the time for debate on Monday and Tuesday on S. 2310, up until the hour of 2 p.m., Tuesday, be divided and controlled by Mr. HOLLINGS and Mr. PEARSON; ordered further, that at the hour of 2 o'clock p.m. on Tuesday, October 21, when the Senate resumes consideration of the amendment by Mr. KENNEDY, time for debate thereon be limited to 3 hours, equally divided by Mr. PEARSON and Mr. KENNEDY; provided further, that a vote then occur at the expiration of that time; provided further, that no amendment in the first degree to S. 2310 be in order at any time after 3 o'clock p.m. on Tuesday, October 21, unless such amendment has been filed at the desk prior to the hour of 3 o'clock p.m. on that Tuesday; provided further, that the pending order which calls for the consideration of S. 692 immediately upon the disposition of S. 2310 be vacated; ordered further, however, that it be in order for the distinguished majority leader at any time following the disposition of S. 2310 to call up and make S. 692 the pending or unfinished business before the Senate; it being understood further that after the vote on the Kennedy amendment on Tuesday, the 21st of October, it would be then in order to propound further time agreements with respect to amendments which will have been filed at the desk by or before 3 o'clock p.m. that day, debatable motions, appeals, or points of order submitted by the Chair for discussion; ordered, finally, that final passage of the bill, S. 2310, not occur on Thursday, October 23 but may occur at any time on Friday prior to the hour of 12 o'clock noon.

The PRESIDING OFFICER. Is there objection?

Without objection——

Mr. STEVENSON. Mr. President, reserving the right to object, do I understand the distinguished whip to say that the vote on final passage could occur before the hour of noon on Friday?

Mr. ROBERT C. BYRD. Yes.

Mr. MOSS. Not later?

Mr. ROBERT C. BYRD. No later than the hour of 12 noon on that Friday, but not on Thursday.

Mr. STEVENSON. Could not occur on Thursday.

I had understood earlier that the vote on final passage would not occur before the hour of noon on Friday and would——

Mr. ROBERT C. BYRD. Does the Senator wish to make that a condition?

Mr. STEVENSON. I would ask the distinguished whip if that might be added?

Mr. ROBERT C. BYRD. Would the Senator be agreeable to setting a definite time of 12 noon on Friday for final passage?

Mr. STEVENSON. Yes, that is agreeable.

Mr. ROBERT C. BYRD. Very well, I so modify my request.

The PRESIDING OFFICER. Is there objection to the modified request?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the majority leader, I wish to express special thanks to the distinguished senior Senator from Utah (Mr. Moss) for his invaluable efforts, cooperation, and persuasion in assisting in getting this agreement.

On behalf of the distinguished majority leader, I also wish to thank Mr. TALMADGE, Mr. GLENN, Mr. STEVENSON, Mr. PEARSON, the distinguished minority leader, Mr. SCOTT, Mr. HOLLINGS, Mr. LONG, Mr. BENTSEN, Mr. FANNIN, Mr. GRIFFIN, Mr. GARY HART, and all other Senators who had a part in working out the agreement.

ORDER TO VITIATE THE ORDER TO CONVENE THE SENATE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the convening of the Senate on tomorrow at 8:45 a.m. be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO TAKE CERTAIN ACTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate until Monday, October 20, at 12 noon, the secretary of the Senate be authorized to receive messages from the House of Representatives and from the President of the United States, and that they may be properly referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE VICE PRESIDENT, PRESIDENT PRO TEMPORE, AND ACTING PRESIDENT PRO TEMPORE TO TAKE CERTAIN ACTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order during the adjournment until 12 noon Monday, October 20, for the Vice-President, the President pro tempore, and the acting President pro tempore to sign duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS THURSDAY, OCTOBER 16, 1975.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that committees may be authorized to report during the recess between the hours of 10 a.m. and 3 p.m. on Thursday, October 16.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 12 noon, Monday, October 20, 1975. After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business of not to exceed 45 minutes, with statements limited therein to 5 minutes each, at the con-

clusion of which period the Senate will resume consideration of S. 2310, a bill to assure the availability of adequate supplies of natural gas during the period ending June 30, 1976.

The pending amendment by Mr. KENNEDY will be set aside temporarily on Monday until the hour of 2 p.m. on the next day, October 21. But in the interim—meaning Monday the 20th and on Tuesday up until the hour of 2 p.m.—other amendments may be called up to S. 2310 and voted upon. Rollcall votes, therefore, may occur on Monday, October 20, on amendments and/or motions in relation to S. 2310. Rollcall votes conceivably could also occur on other measures that have been cleared for action by that time. Keeping in mind that conference reports are privileged, it is quite possible, of course, for votes to occur also on conference reports.

There is an agreement, whereby action will be taken finally on S. 2310 at 12 noon, Friday, October 24. So, there is assurance that there will be some action, one way or the other, finally on that measure, and the Senate will have worked its will on amendments thereto during that week.

Consequently all Senators will be able to return home and report to their constitutents that the Senate has acted on the Sinai resolution and has reached an agreement to act on a bill to assure the availability of adequate supplies of natural gas. I hope that the Senators will come back on October 20 fully restored, with their spirits high, fully rested and fully knowledgeable of the viewpoints, complaints, admonitions, advice, criticisms, approbations, and plaudits of their constituents. Senators have worked hard, and the leadership thanks and compliments them all. The Senate has acted on a great deal of business before going home. The calendar is not quite as bare as old Mother Hubbard's cupboard, but it is pretty clean. Considering the fact that we do now have an agreement to act on the natural gas bill, I feel that all Senators may go home tonight content within themselves, thankful to the good Lord, and looking forward to meeting with the people whom they serve in their respective States next week.

ADJOURNMENT UNTIL MONDAY, OCTOBER 20, 1975

Mr. ROBERT C. BYRD. If there are no other Senators who wish to comment or take the floor at this time, I move, in accordance with the provision of House Concurrent Resolution 424, as amended, that the Senate stand in adjournment until the hour of 12 noon, October 20, 1975.

The motion was agreed to; and at 10:19 p.m., the Senate adjourned until Monday, October 20, 1975, at 12 o'clock noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 9, 1975:

FEDERAL ENERGY ADMINISTRATION

William G. Rosenberg, of Michigan, to be an Assistant Administrator of the Federal Energy Administration.

SECURITIES AND EXCHANGE COMMISSION

Roderick M. Hills, of California, to be a member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 1977.

DEPARTMENT OF THE INTERIOR

Thomas S. Kleppe, of North Dakota, to be Secretary of the Interior.

(The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.)

THE JUDICIARY

Ralph G. Thompson, of Oklahoma, to be U.S. district judge for the western district of Oklahoma.

EXTENSIONS OF REMARKS

SYNTHETIC FUEL PROGRAM

HON. ALLAN T. HOWE

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1975

Mr. HOWE. Mr. Speaker, I would like to take this opportunity to commend my colleagues in the House for initiating hearings yesterday on a synthetic fuel production program. I consider this program, to create a synthetic fuels industry within the United States, another wise and important step on the road to energy independence in the foreseeable future.

The provisions of S. 598 for a loan guarantee program for synthetic fuels is an excellent start in the establishment of an integrated synthetic fuel industry. It is designed to produce by 1985, the synthetic equivalent of 1 million barrels of oil a day, or 365 million barrels per year, from coal and oil shale, abundant within the continental United States. The program, which permits the Federal Government to guarantee $6 billion in loans to private industry, should be authorized by Congress as a quick development incentive for plant construction.

Viewed economically, the synthetic fuel program is particularly encouraging and acceptable. Rather than massive new Federal expenditures, as suggested by Mr. ROCKEFELLER for an Energy Independence Agency, the plan simply designates $6 billion in Federal Government loan guarantees for synthetic fuel production plants.

The program would promote increased employment immediately when we desperately need help in this area, particularly considering the unemployment rate of 8.3 percent. Any assistance in reducing this figure, through public or private measures, should be encouraged. With quick congressional approval of the synthetic fuel programs, or a similar revised plan, a number of synthetic fuel plants could be under construction early next year. Proposed sites include Montana or Wyoming; Illinois or Ohio; Colorado; and the four corners area of Arizona, New Mexico, Colorado, and Utah, regions rich in untapped coal and oil shale reserves. The plant construction will be immediately beneficial to these areas, and ultimately the Nation, by offering alternative sources of energy.

The prospects for industrial conversion of coal and oil shale appears to be an excellent, profitable venture for both the industry and ultimately the American consumer. Continued underutilization of these valuable resources, when the technology is already available for large scale conversion, is senseless. Congress should promote and support such development in the Nation's interest by encouraging immediate provisions to maximize industrial investment of talent and effort.

As we are well aware, the family of carbon fuels is neither the ultimate energy source nor existent on the Earth in unlimited quantities. When we speak in terms of fueling our future needs, we must recognize these facts. At this time, we must take stopgap measures in order to guarantee meeting our immediate energy needs while developing the technology to meet the needs of the future. We are an industrial nation. Our economic situation and employment potential depends on industrial growth which, in turn, depends on increased energy supplies. Until the technology for solar, geothermal, and nuclear energy has been developed to support our extensive fuel demands, we must approach the problem pragmatically. A synthetic fuel program will contribute significantly in meeting our energy needs.

Eventually, we must break free of OPEC's strangulation of energy resources through their price-fixing monopoly. We have already taken a number of steps in that direction. This new and innovative approach, of coal and oil shale conversion, must be encouraged to continue the trend. We can be independent, but we must more aggressively pursue this goal.

ON RIGHT TRACK OR BUYING TIME?

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1975

Mr. MIKVA. Mr. Speaker, I wish to bring to the attention of my colleagues

an excellent article by Congressman PAUL SIMON on the U.S. Railway Association which appeared in the Chicago Daily News, September 20, 1975. Congress is going to have to make some decisions of a short-term nature on railroad service by November 9. What Congressman SIMON recommends in this article are some essential steps for improvement of our railroad, the most energy-efficient transportation system our Nation has.

The article follows:

[From the Chicago Daily News, Sept. 21–22, 1975]

U.S. RAIL ASSN.—ON RIGHT TRACK OR BUYING TIME?

(By Paul Simon)

WASHINGTON.—The U.S. Railway Assn.—the body created by the federal government to salvage some of the rail lines in the most desperate financial straits—has presented its plan to Congress, but more fundamental answers must be produced.

The most basic decision yet to be made is whether railroad service will be improved or permitted to continue to deteriorate. The wealthiest nation on Earth would do well to celebrate its 200th anniversary by getting our rail system on the right track.

Whatever decision Congress makes on the recommendation of the U.S. Railway Assn.—a decision that must be made by Nov. 9—it will be little more than a Band Aid when the national rail system needs (perhaps major) surgery.

The association has recommended that 5,700 miles of track be abandoned as a new corporation, Conrail, operates the remaining lines now in deep trouble in the Northeast and Midwest.

Under the proposal, Consolidated Rail Corp., a railroad company sponsored by the federal government, would take over approximately 15,000 miles of track now operated by the shaky Penn Central and six other bankrupt railroads. It calls for $1.85 billion in bonds to be sold to the public for use by Conrail, plus a $650-million direct subsidy to Conrail.

It is an expensive package—expensive not only to the taxpayers, but to the rural areas served by the 5,700 miles of railroad track that would be abandoned.

In southern Illinois, for example, thousands of citizens no longer can board a train and make a trip to Springfield, Champaign and Chicago. In 1923, Carbondale, with a population of 6,300, was served by 40 passenger trains a day; today, with a population more than 27,000, it is served by only 4 passenger trains daily. This has a special impact on 22,000 students at Southern Illinois University—18 times the number in 1923.

What Congress must determine by the middle of November is what type of short-term answers are needed to stop further erosion of the nation's railroads. One answer is that presented by the railway association. Another being talked about is a two-year freeze on all lines while Congress looks for long-range answers.

Our railroads must be turned into a greater national asset, not a greater liability. It is ironic that we spend hundreds of millions to keep up waterways and airports, billions to maintain our highways, and then hold hearings on discontinuing some of the most energy-efficient transportation the nation has, our railroads.

In addition to recognizing the need for good railroad service, and resolving that we want to do something, these steps should be taken:

Demand that railroads invest in themselves. We require this of many utilities. One of the reasons for the rapid rundown of railroad service and properties is that some of them have found it more profitable to put their money into Pepsi Cola stock or a cotton farm or a pantyhose factory or some other investment. Except for reasonable savings for emergency situations, we should require railroads to concentrate on railroading, not draining off the receipts in other attractions.

Along with this, we should offer to any railroad that wants to sell its right of way an option for government purchase of the tracks, paying for them over a period of five years, then charging the rail line for the use of the tracks. That is the way we operate for trucks, changing them for the use of the highways. That is what we should be doing for barges, charging a small fee for the use of the waterways, which are maintained by the federal government.

If we did this for the railroads, then the federal government could take 50,000 men and women now unemployed and put them to work fixing the rail beds. It would make these people more productive, make our transportation system more efficient and give the railroads substantial sums of money to invest in the improvement of their service.

The second step cannot be taken unless we take the first step, because if we purchase the track without demanding that this money be invested in railroad service, much of the money will slip away for other things.

There are a variety of modifications of these ideas, but there appear to me to be the basic ones.

My choice is for an improvement and upgrading of our present system. It's going to cost money, but no more than our present inadequate approach and perhaps less.

But the go-ahead signal for an approach like I have suggested here will not take place as long as we continue to live in a dream world, believing a few loans and subsidies, plus cutting track mileage here and there, will solve our problems.

They only will add up to more money down the drain and increasingly poorer railroad service.

The people of this country have a right to expect something better.

IF THEY COULD SEE US NOW

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1975

Mr. DERWINSKI. Mr. Speaker, as the Bicentennial spirit develops across the country, it will, in my judgment, give all of us an opportunity to restudy and reemphasize the great traditions of our country.

It will also permit us to analyse the changes that have occurred over the past 200 years, and perhaps provoke thought to reinstating some of our American traditions rather than the radical philosophy that is preached in many circles these days.

A very thought-provoking commentary on our Constitution and its relevancy by Lyn Daunoras, feature editor and columnist of the Times, an Enterprise Publication, of Lyons, Ill., appeared in the October 1 edition of this publication.

The commentary follows:

IF THEY COULD SEE US NOW!

(By Lyn Daunoras)

With the bi-centennial in the offing, some of the interpreters of the Constitution should take some time to re-study the motivation of the colonists who fought a war for liberty.

They would find that the Revolution was the result of a culmination of actions taken by the English crown which forced colonists to pay taxes they did not feel were just.

There was the stamp act, in which the English sought to have their American subjects pay for the seven-year French and Indian war by paying an exorbitant tax on imports. The colonists resisted, refusing to be forced into anything. They boycotted the imports and won that preliminary skirmish.

Then came the tea tax and subsequent rebellion, again stemming from a refusal to be pushed by colonists who stood gallant and challenging, ready for war rather than give in, though anguished at having to fight their mother country.

So what?

So look around today and look at the many things Americans are being forced to do, not by a country whose possession we are, but by the government we have elected.

There is forced busing. The racial slurs are unfortunate and not to be condoned. Other than that, the frustration of the people at being forced to accept busing for the sole reason of integration is understandable. If they have their own school and pay taxes to maintain that school, why should they be ordered to allow children from any other districts to go there?

The answer is to provide good education at all city schools, not force people to be bused or accept busing at the whim of the government. Ironically, it's happening in Boston, site of the tempetuous tea party over a tax the people would not accept.

There are the Amish people who, by their religious beliefs, live apart from others, follow their own rules and regulations and hurt no one. They ask only that they be left alone, yet the government persists in forcing them to have their children educated in public schools rather than their own Amish schools.

And we have the Jehovah Witnesses, who do not believe in blood transfusions and cuting. When a member of the family is dying, the government again steps in and orders a transfusion or operation.

While I'm not in agreement, I feel that if these are the beliefs of these groups and they hurt no one else by them, who is some judge, probably an atheist at that, to play God and force them to go against their religious dictates? If they were a fighting minority group, they would have all sorts of fuzzy-minded liberals fighting their cause, but no one bothers with religious groups trying to live their own lives in dignity.

And there is the "forced" testimony of one Mr. Bonk, who was acquitted by a jury and now is ordered by the government to testify against others. What price acquittal?

Probably the greatest example of "force" is in employment. A man owning his own business no longer has the right to interview applicants for a job and choose the one he finds most promising. He has to consider sex and race or he's in trouble with the government.

He may find just the man he's looking for, but he needs a quota of women and minorities and if the man he wants to hire puts him out of balance, woe be to him. New employment applications do not even allow one to ask if an applicant is a citizen. A war was fought and won against great odds by courageous men to give us certain "unalienable" rights.

Imagine trying to force Howard Hughes to appear in court or be declared dead, just because he prefers to be a recluse?

We had them—what happened to them? Surely those fearless colonists would shrink at their gutless descendants.

HOW SECURE IS THE INTERNAL SECURITY OF THE U.S. CONGRESS?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1975

Mr. ASHBROOK. Mr. Speaker, while Congress whittles away at eliminating its own internal security facilities, recent remarks of Senator BARRY GOLDWATER of Soviet infiltration on Capitol Hill are both ironic and alarming. It seems that Vice President ROCKEFELLER told Senator GOLDWATER that either seven or nine senatorial offices had been discovered infiltrated by Soviet agents or other Soviet elements and a few committees were suspected. If the sources providing this information to the Vice President and Senator are providing a true representation of the existing facts, the public's low opinion of Congress could well sink lower.

It will be remembered that the House on the first day of this Congress voted to abolish the House Committee on Internal Security through a parliamentary sleight of hand and without a direct up-or-down vote on the committee's merits. The House in March refused to instruct the Judiciary Committee to set aside $300,000 for internal security purposes. No subcommittee has been established to handle security work, and the staff has been, with eight exceptions, disbanded.

On the Senate side the Senate Internal Security Subcommittee has had its budget reduced twice in the last several years. Efforts will be made next year to see that this subcommittee receives no funding, thereby effectively abolishing it. Thus the two congressional units which have been by far the most involved and experienced in the area of Soviet espionage may be just a matter of history come next year, our Bicentennial.

One must wonder if, with future Congresses as irresponsible as the present one, we will ever live to see our Tricentennial.

A brief summation of Senator GOLDWATER's remarks in the October 11 issue of Human Events follows:

HAVE COMMUNISTS INFILTRATED SENATORIAL STAFFS?

Sen. Barry Goldwater (R.-Ariz.), who sits on the Senate Intelligence Committee, said last week that "Soviet espionage in this country is so fantastically larger than what we do that there's no way" to compare the two. "They have our country absolutely infiltrated," he said on Martin Agronsky's Evening Edition TV program. "I would say every major industry, every major business; they know what's going on in the committees of Congress. Every once in a while in the Armed Services Committee, I'll see the Russian equal sitting out there. Once in a while someone will go say, 'If there's anything you're not understanding'—just want to make him feel at home."

The Arizona senator also suggested that the Soviets may have placed Communist spies on senatorial staffs. Responding to a question from syndicated columnist John Lofton, Goldwater said he was told by Vice President Nelson Rockefeller—either flying to or from Chiang Kai-shek's funeral—that the Rockefeller panel on the CIA "had learned of instances where the offices of senators had been infiltrated by Soviet agents." "Some seven or nine" Senate offices, said Goldwater.

When Lofton asked Goldwater whether he meant these agents were "actually working in offices" and "supplying information, presumably to the Soviets," Goldwater responded: "Well, working in offices, reporting, helping in the drafting of legislation, the writing of reports, and so forth and so on. But I have no idea what offices they might be.

"But I would put myself in the position of the KGB, and I think one of the first things I would try to do would be to place as many people in clerical positions on the Hill as I could place."

Rocky originally told Goldwater that his panel would print the information, but when the panel's report came out, nothing about this appeared. Goldwater said Rocky had been "requested" to leave it out, though he did not know by whom.

The Vice President, through a press aide, confirmed to Human Events last week that such a conversation between him and Goldwater had taken place, though he could not recall every detail. The question now is: Will Sen. Frank Church (D.-Idaho), who heads the Senate Intelligence Committee, probe this rather startling information?

GAO REPORT SHOWS FEDERAL GOVERNMENT FAILS TO ENFORCE ANTI-DISCRIMINATION LAW AGAINST MENTALLY AND PHYSICALLY HANDICAPPED

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1975

Mr. DODD. Mr. Speaker, earlier this year I asked the GAO to report to me on the extent to which Federal agencies have taken steps to implement sections 503 and 504 of the Rehabilitation Act of 1973.

Although the Rehabilitation Act became law more than 2 years ago, GAO's report clearly shows that Government agencies have failed to enforce these provisions which prohibit Federal contractors and programs receiving Federal financial assistance from discriminating against the mentally and physically handicapped.

Representatives MURPHY of New York, ROYBAL, DRINAN, and BEARD of Rhode Island have joined me in writing the President, the Secretaries of Defense and Labor, and the Director of the Office of Revenue Sharing about their failure to implement the law. When I receive their responses, I will introduce them into the RECORD.

At this time, Mr. Speaker, I insert in the RECORD the text of the GAO report in order that my colleagues may be aware of this situation. The text of the report follows:

U.S. GENERAL ACCOUNTING OFFICE,

Washington, D.C., August 14, 1975.

Hon. CHRISTOPHER J. DODD,

House of Representatives.

DEAR MR. DODD: Your May 15, 1975, letter requested an investigation into the extent to which Federal departments and agencies have implemented sections 503 and 504 of the Rehabilitation Act of 1973 (Public Law 93-112, September 26, 1973), and the impact of these two sections on alleviating discrimination in employing the mentally handicapped and the formerly mentally handicapped.

We contacted officials at the Departments of Labor; Health, Education, and Welfare (HEW); Housing and Urban Development (HUD); Transportation (DOT); Defense (DOD); and Agriculture; the General Services Administration (GSA), and at selected State vocational rehabilitation and employment service offices. We found that only limited progress had been made in implementing section 503 and that, in essence, section 504 had not yet been implemented as of June 30, 1975.

Because of the limited progress in implementing sections 503 and 504, and because major revisions were being made to the regulations for the implementation of section 503, an indepth, comprehensive review of the implementation of these sections, including reviews of actions taken by contractors and grantees, would be more meaningful at a later date. Therefore, we did not visit or obtain information from contractors and grantees.

SECTION 503—IMPLEMENTATION

Implementation of section 503 has been limited for the most part to Labor's issuance of implementing regulations and complaint handling. Neither Labor nor the other cognizant Federal agencies had established enforcement mechanisms to assure Government contractor compliance with section 503 requirements, and coordination of section 503 activities between Labor and other agencies had been very limited. Factors contributing to this condition included weaknesses in Labor-issued regulations, staffing shortages, problems of individuals obtaining certification of their handicaps, and the failure of many complainants to respond to Labor inquiries. These matters are discussed below.

ESTABLISHMENT OF LABOR TASK FORCE

Section 503 requires each Federal contractor with a contract exceeding $2,500 to take affirmative action to employ and advance in employment qualified handicapped persons in carrying out such contracts.[1] Executive Order 11758, dated January 15, 1974, gave Labor overall authority and responsibility for implementing section 503, including the development of implementing regulations. The order also required that the Federal Procurement Regulations; the Armed Services Procurement Regulations; and, to the extent necessary, any supplemental or comparable regulations by any Federal agency be amended to require contracts subject to section 503 to require compliance with the section and regulations issued thereunder by Labor.

In January 1974, Labor established the Handicapped Worker Task Force within the Employment Standards Administration to administer section 503. The Task Force was to develop regulations and guidelines for use by Federal agencies in implementing section 503. It is located at Labor's headquarters in Washington, D.C., and as of July 7, 1975, consisted of 11 members of which six were professionals who devote full time to section 503 activities. To carry out field activities, one person in each of Labor's 10 regional offices was directed to temporarily devote part of his time to section 503 activities until a specific program could be established.

ISSUANCE OF REGULATIONS

Labor issued regulations (20 C.F.R. 741) on June 11, 1974, to implement section 503. Although the regulations became effective on that date, compliance with some of the provisions was not required until later.

The regulations require, in part, that:

[1] The term "handicapped" as defined in the Rehabilitation Act of 1973, as amended, means a person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. The same definition is used for section 504.

Federal agencies include an affirmative action clause (set forth in the regulations) in contracts exceeding $2,500 executed after October 11, 1974.

Federal contractors and subcontractors with contracts exceeding $2,500 take affirmative action to employ and advance in employment qualified handicapped persons, including appropriate outreach and recruiting activities and actions to accommodate physical and mental limitations of employees.

Contractors and subcontractors with contracts exceeding $2,500 prepare written affirmative action programs indicating steps to be taken to employ and advance handicapped persons and disseminate these to all employees.

Contractors and subcontractors with contracts exceeding $500,000 submit a copy of their affirmative action programs to Labor within 90 days after being awarded a contract or subcontract and an annual summary report by March 31 of each year showing affirmative action efforts and results.

IMPLEMENTATION OF REGULATIONS

In issuing its section 503 regulations of June 11, 1974, Labor commented: "We find that notice of proposed rulemaking and delay in the effective date would be contrary to the public interest in view of the need for prompt implementation of the affirmative action requirements contained in the Rehabilitation Act * * *."

Despite this statement on the need for promptness, limited progress has been made by Labor and other agencies in implementing section 503 requirements. Aside from the issuance of regulations, implementation, for the most part, has been limited to Labor's investigating complaints.

MONITORING AND ENFORCEMENT ACTIVITIES

Officials on the Task Force and persons designated responsible for section 503 activities in several of Labor's regional offices advised us that no routine monitoring and enforcement activity by Labor was being carried out on contracts exceeding $2,500, but less than $500,000. Labor officials stated they lacked staff for such monitoring and enforcement activities.

Information available at Labor showed that on contracts of $500,000 or more, as of July 7, 1975, the Task Force received about 100 written programs and about 20 annual summary reports from contractors. We were advised by a Task Force official, however, that the Task Force had attempted neither to identify all contractors required to submit written programs and summary reports, nor enforce the reporting requirement. Furthermore, this official told us that the Task Force had not evaluated the adequacy of the written programs and summary reports submitted. Task Force officials attributed these conditions to the lack of staff, the short time the regulations had been published, and the fact that they had not provided instructions to contractors on what specific information was to be included in their summary reports.

Officials of HEW, HUD, DOD, DOT, and Agriculture advised us that the agencies had not taken specific action to enforce section 503. However, an official at GSA told us that inquiries about section 503 activities are sometimes made during other program reviews of contractors.

In addition, the Armed Services Procurement Regulations had not been amended as of July 1, 1975, to require contracts awarded by DOD and subject to section 503 to include a provision for compliance with section 503 and regulations issued by Labor. The Chairman of the Armed Services Procurement Regulations Committee would not specify why affirmative action provisions for employing the handicapped were not in the regulations but stated that the Committee was waiting for Labor to revise its regulations.

Although the affirmative action requirement had not been placed in the Armed Services Procurement Regulations as of July 1, 1975, under Labor regulations the affirmative action clause is considered by Labor to be a part of every contract subject to the act and the regulations, whether or not it is physically incorporated in such contracts.

COMPLAINT HANDLING

Labor's regional staffs were investigating complaints made under section 503, and were, to some extent, informing contractors of the requirements of section 503. As of April 18, 1975, Labor had received about 262 section 503 complaints (one region provided an estimate of 100 complaints rather than an actual number). Of 162 actual complaints reported by nine regional offices, 67 had been resolved and 95 were still open. Labor's records showed that most of these 95 were open due to (1) problems in obtaining appropriate certification that a complainant was handicapped, (2) the lack of time and staff to investigate, and (3) the failure of many complainants to respond to Labor inquiries. Labor's regulations provide that it may either investigate complaints or refer them to other agencies which are required to institute a prompt investigation of each referred complaint. Despite the backlog of complaints under section 503, a member of the Task Force told us that no complaints had been referred to other agencies for investigation because their personnel were not trained for such investigations.

Task Force records showed that the 162 complaints from the nine regions included 12 from mentally handicapped persons. However, based on information furnished to us by Labor regional representatives, only 6 of the 12 complaints involved mentally handicapped persons under section 503. Of the 6 others, 2 were inquiries and not complaints, and 3 were from persons with epilepsy, which is a physical handicap. The remaining complaint involved a contractor who did not have a Federal contract, and section 503 did not apply.

COORDINATION ACTIVITIES

Some activities have been coordinated between Labor and other agencies and programs, but coordination appears to have been limited. Except for a half-day's orientation by the Task Force, no formal guidance or instructions had been provided by Labor to agencies on their roles and responsibilities in monitoring and enforcing section 503. According to a Task Force member, additional training or guidance was not given because of the lack of staff and because of anticipated major revisions to the regulations. Labor's lack of activity in this regard contrasts sharply with its statement during fiscal year 1975 appropriation hearings, that primary responsibility for implementing section 503 rests with the agencies.

In January 1975, Labor's Manpower Administration sent a memorandum to all State Employment Security Agencies describing some ways the Employment Service offices can assist employers and applicants under section 503. As set forth in this memorandum, the Employment Service can assist employers by

Serving as a source of qualified handicapped individuals to fill contractor job orders;

Providing technical assistance to contractors in making reasonable accommodations to the physical and mental limitations of an employee or applicant; and

Utilizing the mandatory listing obligation of contractors, as set forth in Public Law 92-540, to refer qualified handicapped individuals to jobs after honoring the priorities accorded disabled and other veterans.

The memorandum further stated that the Employment Service can assist applicants and employees by informing them about section 503, the regulations, and the complaint procedure.

The Task Force has not specifically coordinated the affirmative action for the handicapped program with the Comprehensive Employment and Training Act or vocational education programs.

WEAKNESS IN REGULATIONS

The limited manner in which section 503 has been implemented appears attributable in part to certain weaknesses in the Labor-issued regulations. These weaknesses are discussed in the following paragraphs.

Labor's regulations impose no implementing enforcement responsibilities on other Federal agencies, except that the agencies are required to (1) incorporate the affirmative action clause in their contracts, (2) designate a person to be responsible for implementing section 503 in the agency, and (3) investigate complaints referred by Labor. An official of GSA told us that although occasional inquiries are made of contractors' section 503 activities, GSA has no mandate under Labor's regulations to monitor or enforce contractors' section 503 activities.

Labor regulations currently also require that persons be certified as handicapped when filing a complaint against a contractor and that certification must be obtained from State vocational rehabilitation agencies or a facility listed by Labor. Labor, however, had not compiled this list, and some State vocational rehabilitation agencies had either been reluctant or had refused to certify persons as handicapped for section 503, unless such persons had participated in their program. Labor placed the certification provisions in its regulations before it reached formal agreement with HEW, which administers the vocational rehabilitation program. An HEW official told Labor that State vocational rehabilitation agencies would certify a complainant who participated in or could participate in their program.

In addition, the regulations require State employment security agencies to use listings of job openings filed with State employment offices in accordance with 41 C.F.R. 50-250 to refer qualified handicapped persons to contractors. However, as of January 1975, this list was required to include only job openings of contractors with Federal contracts exceeding $10,000. Consequently, State vocational rehabilitation and employment services personnel may be unable to refer persons to contractors with contracts between $2,500 and $10,000 because they may not know who these contractors are.

Finally, the regulations for section 503 do not require contractors who must submit affirmative action programs and annual summary reports to Labor to also send them to the agencies.

EFFORTS TO IMPROVE REGULATIONS AND IMPLEMENTATION

Labor has recognized many problems relating to the regulations for implementation of section 503. According to a Task Force official, they have initiated efforts to make substantive revisions to the regulations. Task Force members also told us that the revised regulations would be aimed at correcting some of the problems we identified above and would provide more guidance to agencies and contractors. However, we are unable to comment on revised regulations because the Task Force did not make a draft of them available to us.

In addition, during the latter part of fiscal year 1975 Labor reorganized some of its activities. It established the Office of Federal Contract Compliance Programs (OFCCP) to consolidate and improve implementation of three separate affirmative action programs: veterans, minorities and women, and the handicapped. Included in OFCCP are the activities of Labor's former Office of Federal Contract Compliance. Labor is currently recruiting persons to fill the 75 position authorized OFCCP for section 503 implementation. As of July 31, 1975, Labor had staffed 7 professional and 8 clerical positions at its regional offices, and 10 support positions at headquarters.

SECTION 504—IMPLEMENTATION

Section 504 provides that no otherwise qualified handicapped individual shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

We contacted grants, management, equal employment opportunity, or civil rights officials in HUD, HEW, GSA, DOD, Labor and Agriculture to determine what actions had been taken to implement section 504. We found that, with a few exceptions, this section had not been implemented by these Federal agencies. Specifically, we found that:

No agency had been assigned overall responsibility for implementing section 504.

Officials at HUD and Agriculture told us that they were unaware of the requirements of section 504 Therefore, they had not taken any action to implement it.

HEW was developing specific regulations for section 504; had published on June 4, 1975, proposed regulations for consolidating administration and enforcement procedures for several civil rights laws and authorities, including section 504; and had requested an Executive Order giving it overall authority and responsibility for implementing the section. As of July 2, 1975, HEW had received 16 complaints under section 504. According to HEW, two had been closed and two may involve mentally handicapped persons. One of these latter complaints involved alleged employment discrimination.

Labor has developed regulations for section 504 for its programs but has not published them because it was waiting for an Executive Order on the section. Labor, had, however, incorporated a provision in its Comprehensive Employment and Training Act regulations requiring compliance with section 504.

Two of the complaints received by HEW involved Federal revenue sharing funds, and were referred to the Department of the Treasury. Officials at the Office of Revenue Sharing, Department of the Treasury, however, did not consider revenue sharing funds to be subject to section 504 because they didn't consider it "Federal financial assistance."

We trust that the information in this report will be useful to you in considering legislation concerning employment discrimination against the mentally handicapped and the formerly mentally handicapped. As requested by your office, we did not obtain agency comments on this report.

Sincerely yours,

GREGORY J. AHART,
Director.

QUESTIONING BUSINESS-AS-USUAL AT THE CIA

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1975

Mr. HARRINGTON. Mr. Speaker, two articles in the October 4 issue of the New Republic should serve as warnings to House and Senate investigators of the CIA that we will miss the most important questions about the Agency's behavior if we limit our attention to isolated cases of insubordination or incompetence. What is needed is not just an exposé of the widely condemned aberrations from Agency routine but a critical look at the routine itself. In the case of covert action, for example, we must not be content with asking whether an assassination attempt or effort at bribery was carried out with Presidential approval. We must ask whether such actions should be carried out at all by a country that holds itself out as a model of democracy and decency.

I am inserting the articles by Morton Halperin and Roger Morris in the RECORD at this point for the attention of my colleagues:

CIA: DENYING WHAT'S NOT IN WRITING

Nine months after it was set up to investigate the abuses of the intelligence community and weeks after its final report was originally due, the Senate Intelligence Committee finally held its first public hearing. There was an effort to recapture the excitement of the Watergate hearings held in the same Senate caucus room two long years ago. The public broadcasting system provided live TV coverage and nightly summaries, the reporters who covered Watergate were out in force, and the committee chairman, Sen. Frank Church, promised important relevations of CIA lawlessness.

By the third and last day of the hearings the main question was why the committee had chosen to begin its public inquiry with this tale of the unlawful retention of a biological toxin. The spectator section of the hearing room was half empty, many of the reporters had gone to the House committee that was fighting with the White House about the right to release classified information and the senators and committee staff were going through the motions of examining witnesses from the Army Chemical Corporation.

Beneath the surface, however, the three days of hearings were the beginning of a public education into how the CIA functions, how it is controlled from the top, and what might be done to ensure that in the future it is responsive to presidential and congressional directives.

It was Sen. Howard Baker, the only veteran of the Watergate Committee on the intelligence panel, who first raised these issues in questioning CIA Director William Colby about the lack of a paper trail to determine what had happened.

The bare outlines of the story were clear. In 1970 President Nixon ordered the destruction of all biological weapons in the possession of government agencies. Before the materials held at Fort Detrick were destroyed, enough shellfish poison to kill tens of thousands of people was shipped to the CIA and placed in a little-used storeroom. There it remained until a short time ago when its existence was called to the attention of CIO Director Colby who in turn notified the Church Committee.

Subsequent investigation revealed that no written order had ever been issued within the CIA directing the destruction of biological weapons and no senior official had ever asked for or received confirmation of their destruction. All that the committee could establish in its investigation and public hearings was that a middle level official had decided not to destroy the toxin because of its great potential value and because it was not in his view clearly covered by the presidential order. That official, Dr. Nathan Gordon, who was responsible for biological material within the CIA technical services division, told the committee that he had received no written directive from his superiors to destroy the toxins.

That was as far as the committee could get. Former Director of Central Intelligence Richard Helms and his Deputy for Covert Operations, Thomas Karamessines, told the committee that they had agreed that the toxins should be destroyed and had passed the order orally to Dr. Sidney Gottlieb, director of the technical services division. Dr. Gottlieb was reported by the committee counsel, F.A.O. Schwarz III, to be planning to take the Fifth Amendment and he was not called to testify.

As one frustrated senator after another noted, the committee was left in maddening uncertainty. Did Helms order the toxins to be stored away in a written directive (since destroyed) or orally? Did his deputy? Did they want them destroyed? Did they assume they had not been? Was the CIA lax in not seeing that a presidential directive, subsequently affirmed in an international treaty, was carried out or was this a deliberate policy?

With amazing discipline the senators and the staff stuck to the subject of biological weapons, resisting the temptation the Watergate Committee often succumbed to, of asking questions on other subjects. Only Sen. Baker strayed once to provide a revealing glimpse into the months of secret hearings that the committee has held on assassinations. The Tennessee Republican noted that the absence of a paper trail had been characteristic of all of the committee's investigations of possible assassinations. Did this, he asked Colby, reflect the agency policy of plausible denial? Did not the agency's own inspector general's report indicate that it was not possible to determine who was responsible for assassination plans because written records did not exist? Colby sought to turn the question aside noting that plausible denial was used in reference to foreign governments—the agency had to be able to deny to the world that it had a role in a particular operation. Like many CIA procedures, "plausible denial" has now been imported to the United States.

The failure to destroy the biological toxin may reveal one classification of relations between junior and senior officials of the CIA in operations that are illegal or at best highly questionable. Consider how it must have looked in early 1970. The President has ordered the destruction of all toxins. CIA officials at all levels react with caution. Many presidential decisions are meant to apply to the overt agencies of government and not to the CIA. When the United States, for example, agreed in the Rio Pact not to interfere in the internal affairs of Latin American governments, no one in the White House or the CIA meant that to apply to the agency. Perhaps this is a similar case. Clues from the White House are studied carefully. The director of Central Intelligence gets a copy of the National Security Council decision memorandum ordering the destruction of all stocks of biological weapons but the memo directs him and others to look to the Secretary of Defense for implementing directives. None is sent to the CIA. There is not a second memorandum from the White House in intelligence channels saying that the NSC decision does or does not apply to the CIA. Was there a phone call from a White House official to Helms saying no one would be angry or surprised if the CIA kept some of this stuff? There is no way to know.

Thus the senior officials of the agency are left, intentionally or not, with ambiguous signals from the White House. They know that this President or some future one may suddenly confront them with an assignment that can be most effectively carried out with biological weapons and yet they are reluctant to violate an order.

At a lower level the official having physical control of the material faces the same problem. What to do his bosses want him to do and what should he do? He too looks for clues. He receives no written directive to destroy; regrets no request for an accounting of the material and a report of its destruction. On the other hand, there is no written directive to hold the material. There is no way to tell if there was an oral directive or clear hint, but the lack of instructions to destroy is enough. The "assignment" is to preserve the material; he decides to accept it.

We should not be surprised to learn that the middle level officials considered covering

themselves by forcing the director to take responsibility for keeping the toxins. The most interesting document the committee was able to produce was a memorandum drafted to be from Karamessines to Helms but reportedly actually written by Gordon. The committee had only an unsigned carbon and Helms and his deputy both claimed that they had never seen the memo. That it could have been written tells us a good deal about the attitude of agency career officials to obeying presidential orders.

The memorandum begins by noting the presidential order to destroy biological weapons including toxins. It notes that the CIA supply is at Fort Detrick and that, even though it is not on the official inventory list, it might be destroyed when the army destroys its own stocks. The memorandum notes that the CIA program is currently funded at $75,000 and then ends with this revealing paragraph:

"If the Director wishes to continue this special capability, it is recommended that if the above DoD decision is made (to destroy their stocks), the existing agency stockpile at SO Division, Ft. Detrick be transferred to the Huntington Research Center, Becton-Dickinson Company, Baltimore, Maryland. Arrangements have been made for this contingency and assurances have been given by the potential contractor to store and maintain the agency's stockpile at a cost no greater than $75,000 per annum."

The violation of presidential orders can be carried out within the budget and should be done.

What kind of a monster has America created in which memoranda are written calmly describing for the directors the contingency plans that have been made to violate a presidential order, an agency that's able to violate an order without anybody learning about it for five years? It is an agency that practices plausible denial against the President, the Congress and the public as well as against foreign governments; an agency in which junior officials learn to disobey laws because they think they've received subtle signals from the top. Nothing is in writing so that everything can be denied.

All of this should be kept in mind when we get the long awaited Church Committee report on assassinations and are told that there is no firm evidence of White House or even high agency involvement, and when the committee later in the year holds its hearings on remedies.

Former CIA Director Richard Helms was asked by the panel what could be done to avoid a repetition of this failure to destroy the biological toxin. Helms's answer was delivered so smoothly with such casualness that the committee failed to grasp the extent of the deception. Here was a man who was described in the Rockefeller Commission report as warning Henry Kissinger to treat a document with care because it violated the CIA charter, who wrote memos about the agency's 20-year mail opening program noting that it was a violation of the law, who admitted to the Senate Foreign Relations Committee that he had not been completely candid in describing the CIA role in Chile. What was this man's answer to the question of preventing abuse? There was nothing, he said, that could be done about the "odd mistake." If there was a pattern of misbehavior something might be done but nothing could prevent a patriotic man from on one occasion failing to obey orders. That was the price, the American ambassador to Iran suggested, of having honorable patriotic men in charge.

The senators showed by their questions that they were having none of that. They knew that they were confronting massive lawlessness. But their questions revealed also that they remain baffled about how to get at the truth and how to prevent abuses in the future. The manner in which they meet those challenges will determine whether this opening round was pure circus or the beginning of the serious and purposeful inquiry (leading to reform) that the Senate directed, and that the country needs.—MORTON H. HALPERIN.

(Mr. Halperin directs the Project on National Security and Civil Liberties jointly sponsored by the American Civil Liberties Union Foundation and the Center for National Security Studies.)

THE "COMPANY"—BANALITY OF POWER

With the recent revelations of myopic US intelligence on the outbreak of the October 1973 Middle East war, congressional investigations of the Central Intelligence Agency may be on the scent of one of the agency's most important secrets: its bureaucratic banality. Behind the imperial manner and machinations, the CIA has always belonged more to Max Weber than to Ian Fleming, a hostage to clients, careerism, inertia and root mediocrity.

Understanding the banality as well as the outrages of the CIA (the two are often synonymous) seems essential to authentic reform of US national intelligence operations. Bureaucratic influences account for some of the more serious and ridiculous mistakes of what CIA minions call the "Company." Moreover, legislative prohibitions of specific acts such as assassination may be unavailing in the larger policy sense if Congress does not confront at the same time underlying organizational motives which may only reappear in new abuses.

The missed signals on the October war were largely the result of a common bureaucratic phenomenon. Like the Foreign Service, in whose embassy precincts they masquerade, CIA stations abroad are heavily dependent on "client" relationships with their counterparts in host countries. Up to a point, sharing intelligence with friendly powers is simply maximizing channels of information. But as so often happens in the Foreign Service, these relations may tend to obscure the critical boundary between US interests and the client's.

The strength and accuracy of the client's views can affect the standing of the Americans dealing with him, can influence the rationalizations of US officials abroad and the scramble for attention and money in Washington. The CIA has other problems: the credibility of shared intelligence in the past, and the sheer laziness that grows with such dependence. The dangers are worst when the client is also "targeted" at the Soviet Union and thus able to provide information of great interest to Washington. By several accounts, all this made CIA reports from the Middle East in the fall of 1973 particularly vulnerable to the flaws and neglect in Israeli intelligence, whose nearly fatal miscalculations were almost identically reflected in US estimates.

Israel is hardly unique in this respect. For many of the same reasons, US intelligence in the Cyprus crisis was crippled by reliance on the Greek junta, while officials were skeptical of less "reliable" contacts among a more independent Makarios government in Nicosia. If an international race war broke out tomorrow in Southern Africa, CIA intelligence in the region would be similarly blinded by the cozy relations cultivated over the years with the Rhodesian and South African security services, the outgrowth less of overt racism than of CIA's amoral operational affinity for technically sophisticated clients who also worry (or at least say they do) about Russian trade delegations and Chinese textile engineers. Obviously there is ideology in this problem. Yet if they probe deeply enough, congressional investigators will probably discover the CIA's zeal often owes as much to the "professional" seductions of cliency as to cold war passion.

Ideology may be most easily jettisoned at the agency's higher levels in Washington, where the fate of whole sections, and the careers in them, can depend on staying in the action, often regardless of the political niceties. This constant bureaucratic search for a *raison d'etre* is another time-honored motive for policy throughout Washington, and the CIA, however bizarre its methods and purposes, is no exception.

As a member of Henry Kissinger's National Security Council staff in 1969, I was once invited to a lunch at CIA headquarters where a high official discreetly sounded me out about the receptivity of the Nixon White House to a little CIA mercenary operation to save a failing side in a distant civil war. There had been "inklings," as the official put it, that the President actually disagreed with prevailing State Department policy. A quiet operation could be mounted, at minimal cost, of course, to see that the President's "side" got at least an even break—and Secretary of State Rogers and his boys need be none the wiser

It was a classic twist, worthy of John Le Carré. The CIA, we both knew, was already supporting the *other* side through the auspices of a friendly intelligence system; and the people the agency official was now proposing to help were getting aid from the Chinese Communists and were opposed by most of our allies. The whole war lay far beyond any political or military interest of the US. The unspoken point was that his colleagues were busily reporting successes and perils to the director at staff meetings, while this man, graying heir to a swashbuckling tradition, ran a section that hadn't toppled a government in almost a decade. My impression was that in his condition, he could have been persuaded to turn operation on London or Ottawa; the political stripe of the "target" was of next to no importance.

The episode illustrated another prosaic bureaucratic drive in the CIA, one that the current congressional inquiry has too frequently ignored. For all its arrogance and license, the CIA has also been, like other bureaucracies, anxious to cash in on the momentary policy whims of the White House, and there have been abundant opportunities in the last 15 years. The official who came to lunch ready with his mercenaries would have been, after all, serving "national policy" if he had been given a presidential go-ahead, which was not impossible. Similarly the CIA did not embark on its own on a decade of ruthless meddling in Chilean politics. That intervention proceeded from the paranoia of Presidents Johnson and Nixon about the impact of left wing electoral successes on the fragile order in Latin America. Though it exploited and often distorted policy for its own purposes, the CIA did not originate the embroilment in Laos, the commitment to autocracy in Iran, the preference for repressive if pro-American regimes throughout Latin America and Africa, the myth of Fascist "stability" in Portugal and Spain.

As Congress and the public recoil from many of the CIA's past actions, from murder to political mayhem, they are also seeing a faithful, albeit sordid reflection of American foreign policy over the last quarter century. Nor is there any wonder that so many CIA officials, past and present, are said to be bitter about the current attacks on the agency while, they argue, responsible State and Defense Department officials of past administrations, men who sanctioned or applauded the most savage covert actions, now sit unsummoned and uncharged in foundation, law or Wall Street sanctuaries. It is in this sense too that the CIA must be seen as one more bureaucracy, part of a larger problem. For liberal congressional critics of the CIA, this unacknowledged dimension of the investigations will demand much more courage and wisdom than the burial of a discredited cold war zealotry among lesser, largely anonymous officials. To blame and purge the failed James Bonds will be too easy; to finger their numerous high-ranking Democratic cohorts around

Washington at the time will test Sen. Church and his colleagues severely.

None of this should diminish or cloud the sinister quality of the CIA record. No government organization in American history has operated with such pervasive contempt for the democratic basis of public policy, nor, up to this point, with such shocking collusion from the Congress and the rest of the Executive. But the absurdities and dangers of the past will not be dispensed with until there is an awareness that much of the outrage is simply the way of life in Bicentennial Washington. The anxious claimant on dwindling budgets, the victim of clients and careerism, the leading but hardly the lone participant in government-wide disdain for Congress and obeisance to presidential power and secrecy, the CIA has also been a bureaucracy in search of a mission, not unlike NASA gambling its last thrust on the dubious scientific virtues of the Space Shuttle, or the navy hustling to extract from Congress nuclear aircraft carriers ("You can't strut on the deck of a submarine," said one observer.)

There will no doubt always be a need for a sizable national intelligence apparatus, in machines if not in men. But there seems no question either that with political and technological change, the CIA has lost a good part of the reason for its bloated bureaucratic being. And the real stopper to genuine reform is not some stentorian guard of cold war assassins, but rather what mires reform all over Washington—that legion of little people, whose cloaks are knit suits and daggers are government-purchase cafeteria butter knives, with suburban mortgages, children in college, and lives invested seemingly beyond return. When Congress faces up to the humane purge demanded by that problem, it will not only begin to bring intelligence under better public control, but also will chart the way toward needed reform in other areas of government.

Failing surgery on the bureaucratic heart of the problem, however, the prospect seems inescapable that the CIA, like its fellow bureaucracies, will improvise new ways to justify its size and perquisites, to establish its worth, whatever the structural, nominal changes contemplated by the Ford administration.

The possibilities are interesting. In an era where scarce resource is power and where spreading international corporate control and price manipulations can topple regimes faster than troops around the presidential palace, covert action will turn from jungles to boardrooms and stock exchanges. It will no longer be the minister of defense or the police chief we must own, but the director of minerals or the economics professor close to the premier. And there still should be a chance for some old-fashioned fun; pipelines to be blown, refineries to be sabotaged, strikes and demonstrations to be mobilized. Even assissination might be easier to justify when that oil potentate is trying, as Kissinger put it, "to strangle the industrial world."

The catch in all this is that an anachronistic, overpopulated CIA finding its outlet in international economics will expose its own customarily unwitting public to reprisals in kind. There is no reason to assume that such a CIA will be more discreet or more successful than in the past, and there is ample precedent to predict that its newly powerful adversaries in the developing world would retaliate with embargoes and their own price fixing. The cost of CIA adventures then goes beyond national embarrassment to the pocketbooks of families in Duluth and Dallas.

Whatever the plausibility of this speculation it is clear that the world of the 1970s is far too diffuse in power and delicate in allegiance to afford the bureaucratic impulses toward intervention we have learned to expect from the present incumbents in the CIA.

The Congress now has the CIA in one of the rare moments of public censure and presidential diffidence in which genuine reform is at last possible. But the moment is fleeting. The investigation must dig deeper and wider than Congress has been willing to go thus far, and the senators and representatives must be prepared to confront not only generally condemned aberrations, but also equally repulsive products of business as usual. The banality of the CIA is a searing commentary on the whole structure of government. There will never be a better place—or perhaps another time in this generation—to begin the reconstruction.—ROGER MORRIS.

THE NEW YORK DOMINO THEORY

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, October 9, 1975

Mr. HARRY F. BYRD, JR. Mr. President, on September 30, the Wall Street Journal published an excellent editorial debunking the theory that a default on the part of New York City would shatter the finances of municipalities all across the Nation.

Pressure is building for a Federal bailout of New York City, whose politicians have created the mess from which they now seek relief. An orchestrated outcry from mayors of other major cities is part of the campaign being carried out to persuade the Federal Government to come to the rescue.

I believe that the President and the Congress must stand fast against this bailout proposal. Once the Federal Government establishes the precedent of shoring up financially troubled cities, the door will be open for other cities to adopt the same reckless financial practices as those followed in New York, the officials of those other cities being secure in the knowledge that Uncle Sam will cover the losses.

Speaking of the appeal made by the mayor of New York City to the Federal Government, the Journal has this comment:

What Mayor Beame is really asking is that the taxpayers of San Francisco, New Orleans, Milwaukee and Denver pay the bills he and his predecessors have run up on credit, and save him from having to tighten the city's belt.

I think this is an accurate analysis, and I ask unanimous consent that the text of the editorial, "The New York Domino Theory," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 30, 1975]

THE NEW YORK DOMINO THEORY

The big-city mayors went to Washington last week to plead for New York City, each of them telling the Joint Economic Committee of Congress that unless Uncle Sam bails out the Big Apple the economic turbulence that would spread from a default would spread far and wide.

San Francisco Mayor Alioto says his city's bankers are "convinced" San Francisco wouldn't survive a New York City bankruptcy. Mayor Landrieu of New Orleans, president of the U.S. Conference of Mayors, says New York's default would be a "catastrophe" that would cause "serious new economic burdens" for local governments. Milwaukee's Mayor Maier says a default would have a "chilling" effect on his city's tax base.

The most graphic metaphor, kind of a towering inferno, came from Denver's Mayor McNichols: "Every city in the country is like a tenant in a big building. If you heard that a third-floor tenant's floor was going to collapse, you can't think it isn't going to hurt you."

All right, we'll agree that if your third-floor neighbor's floor is about to collapse, you go to any lengths to shore it up. But Mayor McNichols has the wrong metaphor. As a second-floor tenant, what do you do if you hear that your third-floor neighbor, who on an income of $10,000 a year has been throwing wild parties, spending like there was no tomorrow and putting it all on credit cards, suddenly finds himself insolvent? Do you and your fellow tenants rush to the landlord and demand that the spendthrift be extended indefinite credit, saying that you will pay the bills? In the alternative, what happens to you if your third-floor neighbor can't pay his bills, sticking Carte Blanche, American Express and Bank-Americard with the losses?

It is with this latter picture in mind that Treasury Secretary Simon can discount the effects of default, saying it would cause "little, if any" damage to the nation's financial structure and would have a "tolerable and temporary effect" on capital markets.

The banks would be left holding the bag, which is why they are helping perpetuate this domino theory, hoping to panic the Ford administration into making good their potential portfolio losses through federal loan guarantees. But it is inconceivable that the banks have been doing business for the last year as if the New York City paper they hold was gilt-edged, whether or not they've officially discounted it on their books. Thus, the capital markets already reflect most of the damage of a default, and there would be no abrupt shock to the system.

To the degree the market believes Uncle Sam will step in at the 11th hour to save the spendthrift tenant, we would expect the risk premium on all municipals to rise a bit if Washington does nothing. There, too, it's likely that most of the accommodation has already taken place, thereby putting the municipal bond market on a sounder, more realistic footing.

If the big-city mayors really want lower interest rates on municipal bonds, they should be concentrating less on the narrow risk premium and more on the enormous inflation premium in those rates. Yes, the cost of credit to the second-floor tenant is bound to go up when Carte Blanche is stuck with the third-floor tenant's insolvency. But his credit costs will go up much faster if, to stave off insolvency, the profligate tenant is given access to a federal printing press that manufactures money.

True enough, the mayors don't go quite that far in their proposal to have the U.S. government guarantee only taxable municipal obligations. And the city would have to show that its budget will be balanced by real revenue for a number of years and that its revenue will cover the repayment of principal and interest on the guaranteed securities. But if New York City could meet all these requirements it wouldn't need any guarantees. Private capital would be delighted to come home to New York paper if it could see that kind of light at the end of the tunnel.

What Mayor Beame is really asking is that the taxpayers of San Francisco, New Orleans, Milwaukee and Denver pay the bills he and his predecessors have run up on credit, and save him from having to tighten the city's belt. Our advice to the mayors is to forget about the third-floor tenant, go home and take a hard look at their own credit cards.

IMPACT OF NEW YORK CITY DEFAULT ON THE NATIONAL BANKING SYSTEM

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. MOFFETT. Mr. Speaker, yesterday one of the subcommittees on which I serve heard testimony from the Honorable James E. Smith, Comptroller of the Currency, concerning the impact of a New York City default on the national banking system. The subject of his statement is of serious concern to all of us. And while I am not sure I share his feeling that a serious dislocation of the national banking system can be avoided in the event of default, I would like to insert his testimony for the benefit of my colleagues. The statement follows:

STATEMENT OF THE HONORABLE JAMES E. SMITH, COMPTROLLER OF THE CURRENCY

It is a pleasure for me to appear before you today to present my views on the impact which the default of New York City will have on the national banking system.

Our Office has conducted during late summer and early fall of this year a multi-faceted survey of national banks which hold obligations of New York City and New York State.

On July 24, 1975, I directed each of the 14 Regional Administrators to obtain from their examiners the name of each national bank investing in New York City obligations and the total par value amount of these obligations held by the bank. The examiners compiled this information through a review of their working papers relating to the most recent examination of each bank.

We thus determined that 1,746 national banks held New York City obligations with a par value of $1,753,525,000. We identified within this list 153 banks which were holding New York City obligations which exceeded 20% of their gross capital funds. These tabulations were verified during the week of August 18, 1975, with these banks by telephone.

By September 5, 1975, we had analyzed each national bank which held New York City obligations in an amount exceeding 40% of gross capital funds. In addition, selected banks under that cut-off percentage were also analyzed. Altogether fifty-three banks were reviewed by both regional and Washington personnel.

We attempted to appraise each bank's financial capacity to absorb the potential loss and to isolate those banks which could face insolvency or liquidity problems and which would require outside assistance from private sources or from the Federal Reserve and/or the FDIC. The banks analyzed were rated in four groups.

Group I banks are the most critical with insolvency a distinct possibility in the event of a New York City default. These banks would lose substantial portions of capital. Once publicly known, losses in such amounts could trigger significant deposit withdrawals and thus force these banks to seek long-term liquidity support from the Federal Reserve. Ultimately, FDIC assistance also might be needed in the form of a loan or an assisted sale.

Group II banks appear financially capable of absorbing initially the write-down of New York City obligations, but most would be left seriously undercapitalized and would have to pursue recapitalization, sale, or merger possibilities. Many of these banks have serious asset problems, poor sales prospects, negligible support from owners, directors, or officers, and nebulous support from parent holding companies. During the period immediately following default, short-term liquidity assistance from the Federal Reserve may be a necessity. Most of these banks appear to have good prospects for survival, but some may require extended assistance depending on local reaction and a myriad of other factors.

Group III banks should be able to absorb the initial write-down. Some may require additional capital, but others may be able to survive without outside assistance. In addition, most of these banks appear to have minimal asset problems combined with good prospects for sales and support from wealthy owners, directors, and parent holding companies. Losses to these banks, however, still will be significant, and some liquidity assistance may be necessary.

Group IV banks appear to be able to absorb the losses in their own right or with some help from financially capable and responsible parents or other ownership groups.

Our initial review indicated that a New York City default would have the following impact on the banks analyzed:

TABLE 1.—53 BANKS

Group rating	Number of banks	Assets of banks within group (millions)
I	9	$898
II	18	737
III	22	2,251
IV	4	145
Total	53	4,031

A further breakdown is helpful in clarifying these findings:

TABLE 2.—53 BANKS DISTRIBUTION MEASURED BY HOLDINGS OF NEW YORK CITY OBLIGATIONS AGAINST GROSS CAPITAL FUNDS

New York City obligations/gross capital	Number of banks	Assets of banks within category (millions)
Under 40 percent	5	$596
40 percent to 50 percent	8	1,232
50 percent to 100 percent	29	1,777
100 percent to 150 percent	9	383
150 percent to 200 percent	0	0
Over 200 percent	2	43
Total	53	4,031

Our appraisal of the impact upon each bank was done on a pre-tax basis. Any of these banks which has taxable income over an eight-year period, beginning three years before any losses are realized, will be able to mitigate substantially the effect upon the bank of such losses through a reduction of federal income taxes. Such mitigation of possible losses has not been taken into account in our analysis.

On September 9, 1975, I directed national bank examiners to visit each of the banks in Groups I and II to verify holdings of New York City obligations, to analyze each bank's exposure and financial capacity to absorb the substantial losses which would be evident in the case of default, to prepare a liquidity analysis, and to appraise the bank's ability to raise additional capital from inside and outside sources. These special examinations were completed by September 16, 1975, and reviewed in Washington. However, the only material change made in the Group Ratings assigned above was the removal from Group II to Group IV of one small bank with assets of $33 million, because most of its New York City holdings had matured in August and had been redeemed.

On October 3, 1975, a limited survey was conducted to ascertain the amount of New York State obligations and New York State Housing issues held within the national banking system. This survey, conducted by telephone through the fourteen regional offices, focused on the largest fifty national banks plus all other banks whose holdings of New York City obligations exceeded 20% of their gross capital funds. Following is a summary of the results of this survey. All figures represent carrying value at book.

[In thousands]

New York State obligations:	
Bonds	$577,558
Notes	185,712
Total	763,270
New York State Housing (11 issues):	
Urban rental housing	86,064
Nonprofit housing	73,314
Hospitals and nursing homes	52,322
Medical care facilities finances agency	19,616
All other	359,058
Total	590,374
Total	1,353,644

As additional information, the following table shows the number of banks in each category when the combined holdings of New York City and State obligations are taken as a percentage of gross capital funds:

New York City and State obligations/gross funds	Number o banks	Assets of banks within category (millions)
Under 40 percent	2	$295
40 to 50 percent	21	861
50 to 100 percent	50	6,086
100 to 150 percent	17	1,083
150 to 200 percent	3	86
Over 200 percent	2	43
Total	95	8,454

We are in the process of evaluating the potential impact upon individual banks of these holdings.

At this point, I would like to explain our procedures for examining investment securities. Although mechanical procedures will vary with the size and the equipment of the bank, every issue of bonds held by each national bank as an asset is reviewed during each examination.

Examiners analyze the credit quality of a bank's investments and detail their findings in a schedule grouping bonds by type, book value, market value, and individual and aggregate appreciation or depreciation. Because an investment account serves as a secondary liquidity reserve, the examiner's report also schedules holdings by type and maturity. Listings of secured liabilities and pledged assets round out the report.

An examiner also reviews and comments upon the attention given an investment account by the bank's board of directors. He evaluates procedures followed for approval of purchases and sales, for delegation of authority to committees or to individual officers, and for regular appraisal and audit. If the banks hold undesirable investments, the examiner will note what action, if any, the board contemplates.

Under 12 U.S.C. 24 the Comptroller has been authorized by Congress to prescribe limitations on the purchasing of investment securities by national banks and to define the term "investment securities." Our regulations on this subject apply not only to national banks, but also to State banks which are members of the Federal Reserve System.

The term "investment security" is defined at 12 C.F.R. 1.3(b) as a marketable obligation in the form of a bond, note, or debenture which is commonly regarded as an investment security and does not include investments which are predominantly speculative in nature. Thus, while bankers may extend credit to their customers by making loans or purchasing bonds and while they

I am proud to have an organization like the Junior League of Erie in my congressional district and am happy to honor them in the House of Representatives on its 50th birthday.

TWO HUNDRED AMERICAN VOLUNTEER TECHNICIANS

HON. JOHN Y. McCOLLISTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. McCOLLISTER. Mr. Speaker, I support sending 200 American volunteer technicians to the Sinai as an essential ingredient in promoting peace in the Middle East. Both the Egyptians and the Israelis requested such an American nonmilitary presence, and I am convinced that adequate safeguards exist to evacuate the technicians in the event of another outbreak of hostilities.

It would be wrong to interpret my support for sending the technicians and, I suspect, the support of many of my colleagues as well, to be a blanket endorsement of the administration's position. Let the record clearly show that as we vote to send the technicians, Congress is making no promises of huge new handouts to Egypt or Israel.

The United States is not rich enough to buy peace in the world. Our foreign aid handouts do not cement alliances with our friends nor prevent those whose national interests are contrary to ours from proceeding their separate ways. All that foreign aid giveaways have brought is contempt from those who have been the degraded clients in that relationship and the unenviable "ugly American" image throughout the world.

Moreover, the bestowal of unappreciated American largess abroad is also resented by the American taxpayers who have been asked time and again to ante up to buy acceptance for our policies abroad. It would not work and I would not be party to another such attempt to buy peace in the Middle East.

Sending this 200 technician contingent to the Sinai represents America's continuing commitment to a permanent settlement in the Middle East. The success of this and the preceding administration is stabilizing the Middle East must certainly rank high among its important achievements. We must avoid, however, any permanent institutionalization of temporary measures. This compromise is no more the final answer to the Arab-Israeli problem than was the creation of the Palestinian refugee camps 25 years ago.

Let us continue to demonstrate by our actions as well as our words that the United States has accepted a responsibility to achievement of peace in the Middle East. But in our efforts as peacemakers, let us avoid the mistakes of past years in connection with foreign giveaways.

THE PROBLEM OF PCB'S

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. REUSS. Mr. Speaker, environmentalists are becoming increasingly concerned about a group of highly toxic, nonbiodegradable chemicals known as polychlorinated biphenyls—PCB's. PCB's are primarily used in the manufacturing of electrical equipment, and they enter the environment as part of the industrial waste dumped into our Nation's waterways. As one result, the commercial fishing industry in many parts of the country has been dealt a severe blow.

The Environmental Protection Agency and the Food and Drug Administration, along with several State agencies, have been monitoring the effects of PCB's, and both EPA and FDA have imposed strict tolerance levels for these chemicals. In addition, Federal legislation to regulate the interstate commerce of PCB's has been proposed by my colleague, Congressman LES ASPIN.

The October 6, 1975, issue of Business Week contains an article on the PCB problem and the reasons for environmentalists' concern about these chemicals:

A FRESH FIGHT OVER PCB POLLUTION

The bass swimming in the Hudson River and the salmon wending their way through Lake Ontario probably do not know that the fatty tissues in their bodies are rife with a toxic, nonbiodegradable substance called polychlorinated biphenyl (PCB). But several environmental officials are saying that PCBs flowing into waterways from electrical equipment plants are making the fish unsafe to eat and that people who ingest high levels of PCBs run the risk of stillbirths, miscarriages, and dermatological problems. Environmental agencies are pushing for stringent effluent discharge rules that the industry says cannot be met.

The industry is not taking the onslaught meekly. It claims that further restrictions on PCBs, which are widely used as insulating fluids in industrial capacitors and distribution transformers, would mean trading a dubious health hazard for almost certain safety and economic problems. And they resent the tendency of many environmentalists to condemn all PCBs in one swoop. "Everyone talks of PCBs as if they were one chemical, but each commercial mixture can have 60 or more isomers," complains William Papageorge, manager of product acceptability at Monsanto Co., this country's only PCB producer. Each separate PCB is differentiated by the number and positioning of chlorine atoms on the molecule.

It is the chlorine content that makes the PCBs fire retardant—a prime selling point for the chemicals as insulators. But it is also the chlorine that causes the pollution problem.

The dispute when General Electric Co. clashed with the New York State Dept. of Environmental Conservation over levels of PCBs flowing from GE's Hudson Falls and Fort Edward plants into the Hudson River. But New York is not alone in its war on PCB users. Wisconsin is in the midst of hearings on PCBs, and Representative Les Aspin (D-Wis.) just introduced a bill to control the chemicals in interstate commerce. The federal Environmental Protection Agency, which made an abortive attempt to set stringent PCB pollution rules in 1973, is planning to reintroduce proposed regulations in February that would severely limit discharges into rivers and streams. EPA spokesmen admit they may have opened a can of worms. "This is a very confusing and complicated issue," sums up Thomas Kopp, a chemist in the EPA's toxic substances office.

NO GUARANTEE

Although environmentalists are pushing for controlling PCB discharges into the waterways rather than banning the substance outright, electrical equipment manufacturers say it amounts to much the same thing. In New York, the state will convene hearings on Oct. 6 with an eye toward ordering the GE plants to attain zero discharges of PCBs into the Hudson by Sept. 30, 1976. "There is no way we can say now we will achieve this," says Edward L. Simmons, GE's manager of environmental protection. He says the company has sealed off drains that might allow spilled PCBs to get into the river, has changed its methods of filling capacitors, and is either recycling PCB-contaminated waste water or drumming it and sending it off for disposal by incineration or landfill. "But we use tens of thousands of pounds of PCB each day," Simons says. "It is impossible to guarantee no runoff at all."

Other electrical equipment makers, although not now involved in hassles with environmental groups, are tacitly supporting GE's position. "We have encountered no problems with the EPA concerning discharge of PCB compounds, but we are working with them to establish proper levels of allowable discharge," notes M. J. McDonough, a Westinghouse Electric Corp. executive vicepresidnt. McDonough says that Westinghouse has three plants that use PCBs and that they are discharging less than 0.004% of the total amount of PCBs processed.

Both Westinghouse and GE have for years been using PCB mixtures containing only 1% of atoms with more than four chlorines attached. They claim that this mixture is for the most part biodegradable and that the PCBs showing up in fish today are leftovers from several years ago. Monsanto's sales figures support this contention. In 1971 it introduced Aroclor 1016, a low-chlorinated PCB mixture for capacitors. It could replace Aroclor 1242, which has high chlorine concentrations. By last year sales of Aroclor 1242 had plummeted from 22-million lb. to 6.2-million lb., while Aroclor 1016 sales hit the 22-million-lb. level. Still, the EPA adamantly rejects the idea of eased standards for the newer PCBs. "It is difficult to tell what mixture you started out with once you analyze PCB concentration in the waters," Kopp maintains. "And less chlorinated PCBs are still highly toxic."

THE SAFETY FACTOR

nIteresting1y, GE is downplaying the economic effects of a switch from PCB and is stressing the safety angle instead. PCBs are actually more expensive than non-flame-retardant substitutes such as mineral oil, Simons contends. "But PCBs are still the most ideal insulating fluids because they conduct heat without conducting electricity, and in the event of equipment failure, they will not cause fires," he says.

Although Dow Chemical Co. has come up with an experimental fluid for capacitors that it says is less toxic than PCB, and Japan's Nippon Petrochemicals Co. is selling various types of naphthalenes as replacements, no one has yet developed a nonflammable substitute for transformers.

Even if the industry could live with flammability as a hazard, a switch to substitutes would be inflationary, the Electronic Industries Assn. says. Because mineral oils and

other insulating fluids do not have the good electrical properties of PCBs, larger transformers and capacitors would be needed, says Tyler Nourse, the EIA's vice-president of the parts division. "A halt in the manufacture of PCB-impregnated transformers and capacitors would require the expenditure of $500 million a year in additional electrical equipment," Nourse says.

Monsanto is maintaining a surprising calm in the face of the furor. According to Papageorge, the company has long stopped selling PCBs for nonessential uses—carbonless paper, paints, coatings, and the like. And it has made available to its electronics customers a high-temperature incinerator to dispose of spent PCBs or PCBs that have been accidentally contaminated during the manufacture of electrical equipment.

However, Papageorge bridles at an accusation made recently by Glenn E. Schweitzer, director of the EPA's office of toxic substances, that some of its customers may be reselling PCBs for unauthorized uses. "There are some PCBs still coming in via imports, and there are probably still some unused products from long ago that still find their way into the environment," Papageorge says. "But our customers have too much at stake to do this." The EPA claims the signs point elsewhere. Although he would not name sources, Kopp says, "We have received several letters confirming Schweitzer's charge."

Meanwhile, all eyes are turning to Japan, where PCB production has been banned since 1972. Some PCBs are still imported, but their use is tightly regulated. So far, Japan's experience may put the safety argument on shaky ground. According to the Ministry of International Trade & Industry, there have been no accidents directly related to the PCB ban.

MARSHALL McGRATH

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. MICHEL. Mr. Speaker, I am saddened, as I know many Members will be, by the passing of Marshall McGrath. Marsh was director of corporate affairs for the International Paper Co. here in Washington.

He died at his home in Arlington after suffering a heart attack. He was only 46.

Throughout his career in Washington, he worked diligently on behalf of good government, and was a leader in forest industry-Government relations. He was a good friend to many of us on the Hill, and a friend of sound policies affecting the wood and paper industry.

He was born in Danville, N.H., and educated in Massachusetts and Connecticut. He joined the International Paper Co. in 1951, working first at a mill in Maine. Later he moved to the corporate headquarters in New York, and in 1971 established the Washington office.

He approached his duties here with a commitment to the highest standards, with great ability, and with a warmth and friendliness that endeared him to all with whom he came in contact. I knew him well, and was very fond of him. He did his profession proud, and his death, at so young an age, is a great shock and a grievous loss.

I know that all Members will want to join with me in offering our most sincere sympathy to his lovely wife Carolyn and his daughter, Cheryl. We share their tragedy, their grief, and their fond remembrance of a fine, fine gentleman—Marshall McGrath.

GEN. THADDEUS KOSCIUSZKO

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. HELSTOSKI. Mr. Speaker, as we prepare to celebrate the 200th anniversary of the birth of our Nation, it is very important that we pause to reflect upon the prominent participants in the American struggle for liberty and their great contributions to the victory which gave us our precious independence.

In this vein, I recently read an exceptionally stirring and eloquent account of the outstanding accomplishments of Gen. Thaddeus Kosciuszko in behalf of attaining our freedom. General Kosciuszko was a brilliant engineer and military tactician who earned the acclaim and deep admiration of all who served with him.

The following inspirational article which appeared in the October 1975 issue of the Saturday Evening Post was written by the noted writer and syndicated columnist, Maj. Ernest L. Cuneo, who has vividly captured the dedicated character of this great patriot and chronicled his remarkable career in the pursuit of liberty both in America and in his native land, Poland. I wish to share this excellent article with my colleagues and place it forthwith in the RECORD:

GEN. THADDEUS KOSCIUSZKO: MASTER MILITARY MIND OF THE AMERICAN REVOLUTION

(By Maj. Ernest L. Cuneo)

It is one of the ironies of history that had General Thaddeus Kosciuszko been born with a name as easily pronounced as General Robert E. Lee, Ulysses Simpson Grant or John J. Pershing, his name would resound throughout Western civilization as one of the foremost military geniuses of all time.

But a name which is difficult to pronounce is almost impossible to remember. Phonetically, the name is pronounced Kos-Choose-Ko.

He was of the towering stature of a Hannibal, or a Caesar. Most Americans are quite unaware of the fact that the military genius of this man is largely responsible for the victory which gave America its independence. There are thousands of memorials throughout these United States to General Lafayette, General Pulaski, and General von Steuben; but the military giant who towered over them all goes unnoticed. Though the military was his first profession, Thaddeus Kosciuszko was a Renaissance man. He was a painter, an architect, a composer, a scholar and a philosopher. He was accepted as an intellectual equal by Jefferson; he was also a mystical visionary of human rights scarcely second to Abraham Lincoln.

One would think that the life of a man who was the master military mind of the American Revolution would have received the closest attention of historians. Actually, his papers have not yet been fully collected, much less an authoritative biography been written.

Thaddeus Kosciuszko did not come by these talents accidentally. His life confirms the maximum that genius is the talent for infinite pains. He was a prodigious toiler all of his life. He burned the midnight oil; then sentries awakened him so that he might study before dawn.

He was born in the Polesi district of Poland, of the landed gentry. He was descended of a famous line of valiant Polish officers. However, they were not of the Polish grand nobility, as was Count Casimir Pulaski, youthful Chief of Cavalry of the Continental Army. The father of Thaddeus Kosciuszko owned a small village in this district. As a boy, Kosciuszko had as playmates the sons of the peasants of the village. There, he developed a love for the common people, as deep as that of Abraham Lincoln.

Technically, belonging to neither the titled aristocracy nor the peasantry, he proved to be the common denominator in uniting them in the cause of Poland. His immortality in Poland is roughly comparable to a montage of General George Washington and Abraham Lincoln in the United States. In Poland the name of Kosciuszko is an abbreviation for the soul of Poland and the determination that it will never die.

His brilliant career in the American Revolution was followed by an even more spectacular one as the single world figure embodying the exalted spiritual qualities of both the American and French Revolutions. The roots were in his childhood. His mother had given him Plutarch's *Lives* to read. The lad's imagination was fired by the heroic battle against tyrants by Timolean of Corinth. It proved to be his life model.

His essential military talent which brought victory to the American Cause was his magnificent insight into the use of terrain as a natural defense. His decisive service to the American Revolution was in defeating the key British strategy of severing New England from the rest of the Colonies by control of the Hudson Valley. Colonel Kosciuszko prevented this at the Battle of Saratoga in the north and by his impregnable fortifications of West Point in the south.

The Battle of Saratoga, fought in October of 1777, is unanimously called one of the ten most important battles in recorded history. The reason is that when British General "Gentleman Johnny" Burgoyne surrendered, both France and Spain were convinced that the Continental Army could win, and thereupon entered into the war as allies of the Colonies.

The campaign of "Gentleman Johnny" was brilliantly conceived. It was a three-pronged offensive. Colonel Barry St. Leger was to come down the Mohawk Valley from Lake Ontario, in a flanking movement; General Burgoyne was to hammer down Lake Champlain and Lake George to Albany; and General Clinton was to come up the Hudson from New York City, to provide the anvil for "Gentleman Johnny's" descending hammer on the Continental Army. Obviously enough, the hammer and anvil had to be prevented from meeting.

Only twenty miles north of Albany, Colonel Thaddeus Kosciuszko selected a natural fortress in the terrain, and he made it both an invulnerable fort and a trap by his brilliant engineering.

In briefest terms, Colonel Kosciuszko found a little mount which controlled the narrow road between it and the river and he crowned it with artillery. He had carefully selected the mount; it was just below Mill Creek, flowing into the Hudson. His selection provided a water barrier which prohibited the famed bayonet charge of the Redcoats on the American Right flank. Moreover, Mill Creek's tributaries had formed four deep ravines running from northeast to southwest, natural breastworks which made infantry attack on the American center impossible. Thereafter, to crown the masterpiece, General Kosciuszko placed the heavi-

est concentration of American artillery on the higher Bemis Heights, commanding both the river and the ravines.

"Gentleman Johnny" had no alternative but to attack the American left flank. This movement had been foreseen by Kosciuszko and the Continental sharpshooters were waiting. Brigadier Fraser, the soul of the British forces, was shot, and when that noble soldier pitched from his saddle, the British Crown in the Colonies fell with him.

General Horatio Gates, Commanding General of the American forces, attested that the genius of Thaddeus Kosciuszko was the decisive factor in these words: "Let us be honest. In war as in medicine, natural causes not under our control do much. The great tacticians of the campaign were hills and forests, which Colonel Kosciuszko was skillful enough to select for my encampments."

His masterpiece of strategy was at Saratoga; but his greatest work of military art was the creation of West Point. As at Saratoga, it was in the selection of the site. In all of the vast Hudson Valley Colonel Kosciuszko selected the one point where the river bends around a high promontory controlling both angles of the stream. On a grand scale, he chained the river, then placed his controlling batteries on the high plateau. Thus, the all-powerful British Navy was blocked from the south; never again could the British pincer off New England. Colonel Kosciuszko's intellectual triumph at West Point was greater than at Saratoga. This, because the fortress was too formidable to attack.

The British were forced to revise their grand strategy. They abandoned the North and the Hudson Valley to open operations in the South. Thus, Colonel Kosciuszko's greatest victory was at West Point, the battle his Majesty's forces dared not fight.

Incidents during his tour of duty at West Point afford some insight into his heart. In personal habits, he was abstemious to the point of asceticism.

But, when even beyond this he began to appear emaciated, his concerned brother officers discovered that he was giving his rations to sick British prisoners of war. Again, his quarters were so spare that his brother officers astounded him one day by insisting that he accept a manservant—a slave named Agrippa. Colonel Kosciuszko protested that he had no idea of what to do with a slave. Told that he might do as he wished, he turned to Agrippa and told him he was a free man.

Asked by General Washington why he was drawing no pay, he answered simply that the unpaid enlisted men needed money more than he. He refused offered promotions to Brigadier General. He was so self-effacing that General Washington remarked at West Point, "You are too modest." Perhaps the best insight into his spirit is his remote rock garden down from the main battlements. It was on a broad ledge jutting out from the living rock of the granite cliff. At the north end of it he diverted a sparkling brook to form a splashing fountain. This retreat suggests that, beneath his military genius, lay the brooding stoicism of Marcus Aurelius and the compassion of St. Francis of Assisi.

When the British switched their offensive to the Carolinas, Colonel Kosciuszko was made Engineer of the South. His commanding generals, Gates and Greene, relied on him completely in the selection of campsites, transport and fortifications. The Continental Army waged the same Kosciuszko guerrilla-engineering tactics that it did against "Gentleman Johnny" on his march to Saratoga. Again, the joining of the British forces was prevented. They retired to Yorktown to await reinforcements by sea.

The expected relief by the British Navy of General Cornwallis was thwarted by the victory of the French West Indies Fleet in the Battle of the Chesapeake Capes. The French Fleet and the Continental Army closed in on the surrounded British. Cornwallis surrendered. After the surrender but before news reached the southern theater, Colonel Kosciuszko led the action against James Island at Charleston, in which bloody foray the last shot of the Revolution was fired.

Thaddeus Kosciuszko was not just another lucky General. His professional military qualifications stood out like a lighthouse as he arrived with letters from Prince Czartoryski to General Washington's second-in-command, General Henry Lee. As a youth, he was first in his college. He was first King's Cadet at Poland's West Point and he was first at the advanced Ecole Militaire in Paris. General Washington's staff, like the generals of Mr. Lincoln's Army, were to receive their training in battle.

He had scarcely unpacked his bags before the anxious authorities begged his assistance in devising a defense for the city. In doing so, Colonel Kosciuszko planned and effected a defense against amphibious warfare for a young nation which had no navy at all.

A sea-hand pincer was closing on the Continental Army. General Washington, badly beaten in the Battle of New York and driven north to White Plains, was falling back across New Jersey to Philadelphia. Lord Cornwallis relentlessly pursued. Out at sea, off the Delaware Capes, His Majesty's Fleet, under command of Admiral Howe, made ready to sail up the Delaware River to attack Philadelphia by sea. Washington retreated across the Delaware. Cornwallis gloated that he had trapped the fox at last. But down at the narrow turn of the Delaware, Colonel Kosciuszko designed and built, by Herculean effort, throughout that autumn, forts on Billingsport Island, which controlled both banks of the Delaware. The river was corked. The British sea-land pincers couldn't close.

General Washington, falling back across the Delaware just above Trenton, was not fully apprised of this. With his back to the wall, he sent orders to Philadelphia to build fortifications in preparation for a last-ditch siege. It must have been with enormous relief that he learned that Colonel Kosciuszko had protected the rear of the Continental Army. The rest is dramatic history, how on Christmas Night Washington recrossed the Delaware to smite the Hessians at Trenton and followed it up with the blow at Princeton which sent Cornwallis reeling back to New Brunswick. Down in the Delaware Bay, Admiral Howe, after evaluating the cost of reducing the Kosciuszko forts, stood out to sea. Colonel Kosciuszko had held Philadelphia by making its river approaches too formidable to attack.

Colonel Kosciuszko was rushed north. The strategic key to the Hudson Valley was between Lake Champlain and Lake George, at Fort Ticonderoga. Colonel Kosciuszko at once outlined full defenses, but the Kosciuszko plans were shelved. "Gentleman Johnny" Burgoyne seized the very heights Colonel Kosciuszko had regarded as controlling. So controlling that the Americans were forced to evacuate without offering battle. Had Colonel Kosciuszko's advice been taken, the Burgoyne invasion would have been stopped then; the Battle of Saratoga would not have had to be fought.

The American Revolution had illuminated the military art of General Kosciuszko. The ensuing years were to reveal the magnitude of his soul. When Kosciuszko set sail for his native land, it was with heavy heart. These United States were free, but heavier claims were being hammered on Poland.

He was made Major General of the Crown Army. He trained a Polish militia, the equivalent of the American Continental Army. He was no Hamlet. He took arms against Poland's sea of troubles when Catherine the Great started the infamous second partitioning of Poland, nor did he falter when Prussia and Austria entered the lists against him. Poland's peasant army went down fighting, and General Kosciuszko went down with it, leading the last desperate charge. Sabered at the back of the head and lanced repeatedly as he lay unconscious, he lay at death's door in the prison of Peter and Paul. He was by that time too powerful a spiritual force to kill physically, so Catherine the Great left him to die. In an epic battle of wills, he beat both death and Catherine. When she died, Czar Paul rushed to offer him his freedom. The paralyzed man refused it unless the 12,000 Polish survivors were also freed. The Czar struck a bargain; they could go home to Poland, but he must accept life in exile. Paradoxically, to free his people, he gave up his homeland.

Stockholm and London received him with tumultuous welcomes as an indomitable Spartacus in defeat. He returned to America and subsequently returned again to Europe on secret mission for Thomas Jefferson to settle the sea war of the French and Americans. He spurned Napoleon as a dictator.

When Napoleon met his Waterloo, Czar Alexander I all but begged Kosciuszko to become viceroy of the Kingdom of Poland. Ironwilled Kosciuszko refused: it was Poland absolutely free or nothing. Then the czar offered to champion Poland's cause at the Congress of Vienna. Kosciuszko went there expecting that his objective had been reached at last.

But under pressure of his allies, the czar gave way; Poland remained partitioned. Kosciuszko's spirit was not broken, but his body was. He refused to step on Polish soil while another flag flew over it. The untold riches he was offered he could have used. He was a poor man when he went to the little village of Soleure, Switzerland to die. But it is still a legend that he shared his meager sustenance with the poorest in the village.

A sigh of relief swept through the royal palaces of Europe when on October 15, 1817, he died, for they felt and believed that the spirit of Poland died with him.

But it appeared that neither his spirit nor the spirit of Poland had died. To the field outside of Krakow where his little army had battled Russian heavy artillery with scythes, came a few very poor Polish peasants. With no means for a monument, they simply deposited a few handfuls of earth from their little villages. Like wildfire, the word spread through Poland. Hundreds, then thousands, then tens of thousands of the poorest peasants came with little containers of Polish soil. They who could not raise their flag could raise a monument. A handmade mountain was raised of great base and well over 200 feet high.

To their everlasting glory the Founding Fathers repaid part of the Republic's debt before Kosciuszko died. When he returned to Philadelphia on August 18, 1797, the American people inundated him with affection. As the ship *Adrianna* swept by Fort Mifflin which he had built, its guns thundered a thirteen-gun salute. All Philadelphia crowded to the wharf. It cheered deliriously as he was carried from her deck, believing for an awkward moment that he was being hoisted in triumph. A wave of pity swept through the crowd when it was perceived the man could not walk. But the reaction was instant and spectacular for that staid city: the horses from his carriage were unharnessed, and the city fathers themselves pulled the vehicle through cheering thousands to his dwelling.

President Adams sent a courier. Wrote the second President: "I hope you will find all the consolation, tranquility and satisfaction you desire after the glorious record you have made in a greater theater. On my arrival in

Philadelphia, I hope to have the pleasure to receive you." But it was with Thomas Jefferson, then Vice-President, that General Kosciuszko formed his deepest friendship.

Philadelphia continued to lavish its affection upon him. Love has curative powers. Within months he could walk. To the little house at 301 Pine Street came a string of distinguished visitors: the Duke of Orléans, future King of France, cabinet members, senators, governors and diplomats from abroad; but its most distinguished visitor was Vice-President Thomas Jefferson. Thomas Jefferson became the executor of his will—a will in which General Kosciuszko directed that his American assets be used to purchase the freedom of slaves and furnish them with both land and education.

These distinguished gentlemen exchanged several interesting documents, among them false passports forged by Vice-President Jefferson for General Kosciuszko. The purpose was to get the general to Paris to end the undeclared naval war between the United States and France. Smuggled out at dead of night by Thomas Jefferson himself, General Kosciuszko sailed for Paris via Lisbon. General Kosciuszko apparently accomplished his mission: hostilities ceased after he arrived in Paris.

Thomas Jefferson wrote of General Kosciuszko: "He is as pure a son of liberty as I have ever known, and of that liberty which is to go to all, and not to the few and rich alone."

The most significant tribute to General Kosciuszko came from the Commander-in-Chief, General George Washington himself. General Washington's letters reveal the growth of his respect. "There is one in Philadelphia who I am told is clever, but him I have never seen," General Washington wrote after his Trenton victory, alluding to Colonel Kosciuszko's decisive fortifications at Fort Mifflin. After the Battle of Saratoga, General Washington wrote the Congress, "I would take the liberty to mention that I have been informed that the Engineer of the Northern Army (Cosieski, I think his name is) is a gentleman of science and merit. From the character I have had of him, he is deserving of notice."

When General Washington congratulated him on his West Point masterpiece, Colonel Kosciuszko answered that it was God who created the promontory and the river, and added that the site was ideal for a military academy. General Washington replied, "Colonel Kosci—do you mind if I call you Colonel Kosci—you are too modest."

When Kosciuszko arrived in Philadelphia in 1797, General Washington, well aware of the worldwide acclaim bestowed on him, wrote:

"I beg you to be assured that no one has a higher respect and veneration for your character than I have; and no one more seriously wished, during your arduous struggle in the cause of liberty and your country, that it might be crowned with success.

"But the ways of providence are inscrutable and mortals must submit. I pray you to believe that at all times and under any circumstances, it would make me happy to see you at my last retreat from which I never expect to be more than twenty miles again."

At his historic Farewell to his Officers, surrounded by the resplendent panoply of a magnificent staff, the Commander-in-Chief singled out General Thaddeus Kosciuszko. General Washington then presented General Kosciuszko with his pistols and his sword.

General Washington, a man of forbidding dignity and icy reserve, followed this with one of the most dramatic accolades in American history. The officers of the Continental Army had formed the Order of the Cincinnati. General Washington himself nominated General Kosciuszko for membership. The Officers of the Order then presented General Washington the highest symbol of their regard, the cameo ring of the Order.

Signifying the highest respect, affection, and indeed reverence for their Commander-in-Chief, it must have been among the most prized of his possessions. Thus, when General Washington took from his finger the ring of the Cincinnati, bowed, and presented it to General Kosciuszko, he was bestowing upon the brilliant Polish military genius the highest accolade of the Continental Army.

It is a fair interpretation that General Washington was amplifying by deed what General Gates had declared at Saratoga: "Let us be honest: the military skill of General Kosciuszko is as responsible for the victory of the Revolutionary War as it was at the Battle of Saratoga."

BURN, BABY, BURN

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. MAZZOLI. Mr. Speaker, when the Washington Post's contract with its pressmen expired last week, members of the union systematically and resolutely sabotaged the Post's nine printing presses. The fire and the destruction was so complete that the Post had to curtail normal operations.

A week later the situation has improved only slightly.

Inevitably, there will be settlement of the dispute. And, inevitably, the saboteurs themselves will be taken back into the fold. But, the bitter taste of this escapade will linger for a long time to come.

This country's collective bargaining mechanisms were developed to avoid the violence which had marked earlier labor-management disputes.

But, the Post workers ignored these peaceful, nonviolent mechanisms in favor of strong-arm, vengeful tactics.

The behavior of these Washington Post employees has been shocking and shameful. Anyone who burns a printing press is burning that which is produced by the press: The printed word.

These vandals might just as well have burned a pile of books as a printing press. The symbolism and the intent are the same.

Thomas Jefferson said a free press is the most vital element for the well-being of a democratic society. The Washington Post pressmen will long be noted as the group which—by lawless and uncivilized behavior—sought to deny the public their right to be informed by a free press.

Scotty Reston had an excellent article on this subject in the New York Times of October 3. I commend this to the attention of my colleagues:

BURN, BABY, BURN

(By James Reston)

WASHINGTON, October 2.—The pressmen of The Washington Post have finally succeeded in doing to their own newspaper what former President Nixon and his Attorney General John Mitchell tried and failed to do during the Watergate conflict: They have stopped the presses at The Post.

Not by legal action. Not by a legitimate strike, but by fire, smash and run. This was no complicated collective barganing power-play, but a simple, vicious and planned act of sabotage. Even in the revolutionary turmoil of Portugal, where the Communists and the Socialists have been fighting over control of the last independent newspaper, Republica, and over the operation of the Roman Catholic Church's radio station, nobody put the torch to the presses, or pulled the electrical guts out of the transmitter. They occupied the joint, but they didn't try to destroy it.

The pressmen at The Washington Post, which has been more liberal politically, and more generous economically with its employees than almost any other newspaper in the country, showed no such restraint. Knowing the fantastic cost and fragility of modern presses, they set at least one of them on fire, cut the webs and ripped the wires out of others, and sawed off the adjusting press screws down to their stubs, before they went out back and picketed for public support.

This is not a local or a trade union but a national issue, and maybe it is just as well that it was raised in the Federal capital. For if sabotage can be used as an instrument of collective bargaining in Washington, then the concept of collective bargaining and even the First Amendment principle of a free press are in serious trouble.

In short, this is a very special issue, and the question now is what the reaction will be to it. The newspapers of America are fiercely competitive, but when one of them is in trouble, they are a mutual aid society. Accordingly, many newspapers have been calling Kay Graham of The Post and offering spare parts to get her wounded presses going again, and some have even offered to risk union violence to print The Post while she is trying to repair the damage.

But the main burden has fallen on Joe Albritton, the new owner of The Washington Star, who is now losing a million dollars a month. He has a problem. Should he come out against the sabotage by The Post's pressmen, and offer to print The Post, making a common front against this anarchy, or concentrate on his own immediate interests?

It is a hard call. If The Star tried to print The Post, the same pressmen's union that struck and sabotaged The Post would probably strike The Star, and both would then be down. Albritton says that if he went down for even a few days, in his present financial extremity, he might never come up again. He has obligations to his staff and to the people who hold the mortgage on his paper, so he feels he must keep on printing.

It is easy to understand his dilemma, for he came to Washington under great difficulties, not to shut down The Star but to keep it going. Also, The Post is sure to ride out this crisis, while The Star is on the edge of bankruptcy, and in the short run will undoubtedly benefit from The Post's labor crisis.

The Post has met, despite the temporary destruction of its presses, the two main obligations of any newspaper: to stay alive financially, and to print the news. It has found other papers, outside Washington, to print limited editions of its papers, and will probably lose a lot of money in the process, but it has kept the loyalty of most of its unions and is trying to serve its readers.

The tragedy of this unfortunate incident is that The Post and The Star were not able to make common cause against the obvious criminal sabotage of The Post's pressroom. Washington needs two newspapers, and probably cannot have them unless they work together, while competing against one another, with a common printing company.

This compromise of common printing with competitive papers, which has worked successfully in Miami, Fla., and other cities, was at least vaguely possible here before this

crisis, but after the struggle of the last few days, it is now more remote than ever. The Star needed The Post, and The Post felt that The Star played the role of the fearful bystander in the crisis, and that the unions and the politicians also stood aside while the pressmen tried to burn The Post down.

Fortunately, there are some consolations in this unfortunate event. The Newspaper Guild defied the pressmen at The Post and refused to support the sabotage. And other papers came to the aid of The Post with spare parts and offers to print.

Also, The Post is determined to take this issue of sabotage by individual pressmen and their union to the courts and demand damages to the full. The issue is beginning to be seen here not merely as a trade union conflict, or a Post-Star conflict, but as a fight against violence and for the right to print. The tragedy is that The Post and The Star could not get together, even if they had to go down together, on this issue.

McGRATH—A CHAMPION OF RESOURCES IN AMERICA

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. DON H. CLAUSEN. Mr. Speaker, I am deeply saddened by the news of the untimely passing of Marshall C. McGrath, an official of the International Paper Co. He was suddenly struck down by a heart attack on Sunday, September 7, at his home in Arlington. He was only 46.

Mrs. Clausen and I would like to extend our sympathy to his wife, Carolyn McGrath, and their daughter, Cheryl, upon whom the tragedy of his death bears most heavily.

Sudden death always stuns and saddens. Marshall was cut down in the very prime of his career. In 1971 he helped establish his company's corporate affairs office here in Washington where he quickly rose to a position of great authority. At the time of his death he was serving as director of the office.

His vast knowledge of natural resources, consumer affairs, and his understanding of the national economic picture was of great value to me. He often gave accurate off-the-cuff answers to extremely complicated questions, constantly impressing me with his knowledge. He was at all times well informed and so interested in issues. His perspective was individual, corporate, and national in scope.

Marshall was very proud of the associations and friendships that he made on the Hill and in Washington. His hard work brought him respect and friendships that he always enjoyed. He will certainly be remembered by all who knew him for his effervescent personality, his sharp mind, and his great sense of humor.

His memory will always be with us and his family can be very proud of the prestige that he brought them.

Marshall McGrath is certainly going to be missed.

PROTECTING THE PRESIDENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. HAMILTON. Mr. Speaker, the two recent attempts on President Ford's life have touched off a national debate on how to improve protection for the President.

Americans are asking themselves what, if anything, can be done to reduce the danger to the country's highest official, and judging from recent polls, about half of them believe that the risks are too great for a President to shake hands and mingle with crowds.

Torrents of questions are being raised about the personal safety of the President and the reasons for this mindless violence and whether the President, chosen for his job by the people, can move among them, shake their hands, and talk to them.

Most security experts acknowledge that there is no way to guarantee the President's safety in an open public meeting. There simply are too many angry, deranged people in a country of 215 million people. The odds cannot be reduced to zero. The hard fact is that without gross trespass of constitutional liberties, a President cannot have close contact with great numbers of people in total safety. The Director of the Secret Service has told the Congress that even with the best available methods and technology, his agency has been unable to develop satisfactory procedures for pinpointing potential Presidential assassins.

President Ford's statements about not capitulating to would-be assassins are understandable, and his valor is certainly commendable, but surely reasonable precautions are in order. Recognizing the impossibility of devising a program to control potential assassins that is consistent with civil liberties and completely effective in protecting a President as he mingles with crowds, it is still possible to reduce the risk of harm to the President.

The President should curtail open crowd situations at least until the present assassination fever abates and reduce the opportunities for deranged people to harm him. Leading experts on violence have predicted that the President will face future assassination attempts, and they have urged him to cut down his travel long enough to provide a cooling-off period. Travel can be less frequent, publicly announced appearances could be reduced, motorcades could move briskly and expose the President less, the protective vest could be worn, tightly controlled indoor appearances could be planned—perhaps even including metal detection and handbag inspection, and inside motor entrances could be used instead of exposed public ones.

Even with these restrictions, a President has many avenues of communication with the people. He can receive people in situations where identification can be checked, go on television, talk to the press, or give speeches. It is really doubtful that a flurry of handshakes with people at an airport or outside a hotel is an essential part of the dialog between the President and the American people.

Press coverage of foiled or would-be assassins can be toned down. There is no reason to give assassins celebrity status and widespread publicity which may very well encourage others. Potential assassins apparently yearn for sensational publicity, and the press surely has some responsibility to deny them the gratification they seek.

The political temperature in this country can be reduced, and the tone of political debate can be moderated. The impact of heated political charges on unstable persons can be inflammatory. Most Americans, I believe, would welcome a calmer and more substantive debate of national issues, and all of us should probably demand less of the "pressing of the flesh" so common in politics but not really necessary for an understanding of important issues.

Research should continue to improve sophisticated antiassassination devices, including, for example, a miniature metal detector intended to locate concealed weapons in large crowds. The Congress would quickly approve any new funds the Secret Service requested to develop new detection equipment or to step up its intelligence gathering in advance of Presidential appearances to spot potential killers.

I do not believe that Presidential travel should be eliminated or that the President should be isolated. It helps bridge the distrust between citizens and Government for the President to see the people and the people to see him. But this important contact must take place in settings that reduce the risk of harm to the President. I would hope, with implementation of several of the adjustments suggested here, that Presidential trips will continue, without the need to follow the more drastic proposals to isolate the President in Washington or arrest potential assassins every time the President ventures into the country.

The importance of all of this is that the President, human and mortal as he is, represents the stability and order of the state. Injury or harm to him endangers that stability, and that is a risk we should seek to reduce in this fragile and troublesome time.

FREEDOM

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. MOTTL. Mr. Speaker, the thirst for freedom is an unquenchable one.

In America we often take freedom for granted. But in the Central and Eastern European countries of many of our forefathers, a person often goes through life without ever truly drinking of the cup of freedom.

The freedom of our relatives and friends in central and eastern Europe is of particular concern to people like myself whose parents were born in Czechoslovakia.

I often reflect back to the 1960's when Alexander Dubcek was President of Czechoslovakia and the people of the land of my parents were having a taste of freedom. And then with a heavy heart I recall August of 1968 when, without any provocation, the Soviet Union dashed out the flame of freedom and once again raised the flag of tyranny upon the oppressed people of Central and Eastern European countries.

I am certain my colleagues in Congress share with me the concern for the land of our ancestors. We long for the day when once again our friends and relatives can be free from enslavement and tyranny and enjoy the same basic freedoms that we love so much here in our great country.

CONGRESS WILL HAVE TO SECURE CANAL

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. WILSON of California. Mr. Speaker, at the present time, the possibility of ceding the Panama Canal to the Republic of Panama is being explored. The public is being told that, among other things, the Canal Zone belongs to the Panamanians, in a move to gain popular support for turning the canal over to Panama. I believe that the following column by John J. O'Malley which appeared in the September 15 edition of the San Diego Union sets forth what the actual situation is with regard to who has what rights to the Panama Canal:

CONGRESS WILL HAVE TO SECURE CANAL

(By John J. O'Malley)

There is a massive campaign afoot to popularize a retreat from the Panama Canal by the United States. It is gaining momentum every day, and it is terrifying in its implications.

Basically, the drum-fire of propaganda in both the U.S. print and electronic media rests its case on three points.

First, that the Canal Zone is really Panamanian property and that Panama never relinquished its sovereign rights to the area.

Second, that we pressured the Panamanians into giving us a position on the Isthmus of Panama in 1903, using deception to accomplish something that contravened the desires of most Panamanians themselves.

And, finally, that we are even now exploiting the Panamanians robbing them of canal operating profits that are rightfully theirs.

All three of these contentions are frivolous. None has any basis in truth.

As to the matter of sovereignty, there is no question whatever. The Canal Zone is not in any sense Panama territory. The 1903 Hay-Bunau Varilla treaty with Panama was unequivocal in this regard, granting the United States "perpetual sovereignty over the Canal Zone to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights." The plain fact is the Canal Zone is United States territory, something the United States Supreme Court has subsequently confirmed in a formal opinion.

Second, we did not pressure the Panamanians. It would be more accurate to say that they pressured us.

Following liberation from Spain at the beginning of the 19th century, Panama joined Venezuela and Ecuador in uniting with Colombia. The union didn't work. Venezuela and Ecuador split off and Panama became disenchanted with the behavior of Colombia because of its exploitation of the people of the Panamanian region. Beyond this, the Panamanians were fearful, because of Colombian incompetence and lethargy, that a canal would be built across Nicaragua instead of Panama, so they were more than glad to negotiate a profitable agreement with the United States.

As a product of their agreement with the U.S., they were paid fairly for both the right to build the Canal ($35 million) and for clear title to the Canal Zone ($160 million). They have flourished in the ensuing 72 years and now, largely due to canal-related employment, the one and one-half million Panamanians have an annual per capita income of $1,000 and a living standard equaled by few other Latin American states.

Finally, the allegation that we are robbing Panama of Canal revenues is totally without foundation.

We give Panama a voluntary $2 million a year payment. And there are no profits. Although toll collections exceed $120,000 annually, the canal has been a losing venture for us during the last few years.

Quite apart from the sophistry that characterizes the campaign of those who want to see us out of Panama, Americans need to take a hard look at just what it would mean to us were the authority over this vital lifeline actually conveyed to the present government of Panama.

It is a Communist government. The Communist Party is the only party recognized in the country. Others are outlawed. The principal government officials are Marxists—every one—and that includes chief of state, Omar Torrijos, who seized power by force from the elected president in 1968. Freedom of speech and of the press have been totally stifled; the national Congress has been closed. Hatred and defamation of the United States is as much a national policy as are close ties with the Communist world, most particularly the Soviet Union and Cuba.

The attitude of the military government is one of inflexible determination to achieve total authority over the canal, or to punish everyone involved if they are unsuccessful. Just a year ago the acting ambassador to the United States from Panama was unequivocal in a television interview. He said, if they are not successful in their treaty negotiations with us, that "there will be no canal for anybody, not for us, not for the United States, not for the world." This is a thinly disguised threat of violence that neither the United States nor the rest of the world can tolerate, for the 15,000 ships that transit the canal annually are an important element of the world's lifeline.

The fact is, Torrijos and his followers are irresponsible men, and if they were ever in a position to exercise authority over the operation of the canal, they could capriciously bring about major changes in both the economy and the security of our nation.

By jacking up the canal tolls to American shipping they could add substantially to transportation costs, and thus to the cost of end items in our market.

Alternatively, by closing down the canal at their own whim, they could double the cost of maritime fuel for a voyage from the west to the east coast of the United States, and more than double the average transit time from coast to coast.

The Panama Canal is an essential link between the naval forces of the United States deployed in the Atlantic and in the Pacific. It is only because of the waterway that we are able to risk having what amounts to a one-ocean navy.

However, without absolute control of the canal and the essential contiguous land, the United States could not dare to risk the hazard of a one ocean navy. It would be essential at once to initiate construction of fleets independently able to meet a crisis in either the Atlantic or the Pacific—a massive expenditure which we are now spared only because of our control of the canal.

These factors are appreciated throughout Latin America and, despite understandable sentiments of anti-colonialism, the more steadfast Latin governments take no comfort in the prospect of the canal falling into irresponsible hands.

Even more to the point, these matters are generally understood by the American people at large, and through this understanding there is a very substantial popular sentiment against any action which would diminish our sovereignty over the Canal Zone.

What is less well known, however, is the fact that in 1974 we agreed to sit down with representatives of Panama and work out an agreement that would initially give the Panamanians jurisdiction over the Canal Zone and, ultimately, would transfer ownership of the canal to Panama. We are doing exactly that right now. Ambassador Ellsworth Bunker, operating under those guidelines, is hard at work on a Caribbean island, working out the details with representatives of Panama.

Ultimately, it will all have to come before the Congress for ratification, and no American legislative body in history has had a more sobering task than the one the legislators will face when they contemplate a treaty that diminishes our precious sovereignty in Panama. If they conclude that we can risk sharing those 50 precious miles of lifeline with a hostile Communist government; even worse, if they agree to give it away, they will have done their country more harm than a dozen succeeding Congresses could repair.

LAIRD COMMENTS ON DIPLOMATIC RELATIONS WITH CHINA

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. MICHEL. Mr. Speaker, a former colleague of ours, Melvin Laird, was recently in the Republic of China, where he commented on the current trend toward normalization of diplomatic relations with the People's Republic of China. I encourage my colleagues to take note of his recommendation, summarized in the following Washington Star article, September 9, 1975, that diplomatic ties with the People's Republic should not be created at the expense of pre-existing agreements with the Republic of China:

A WORD OF ADVICE FROM LAIRD

TAIPEI.—Melvin Laird, who served as defense minister in former President Nixon's administration, says President Ford should reject the conditions set forth by Peking for normalization of Sino-U.S. relations.

"I would advise him (Ford) that the conditions set forth by Chinese Communists

cannot be met by the United States, that they cannot be a part of an agreement that could be worked out this time as far as the U.S. is concerned," said Laird who is visiting Taiwan as a senior adviser to Reader's Digest magazine.

Laird said Peking last June insisted on the U.S. meeting these conditions before he could visit China: The United States terminate its diplomatic relations with Taiwan; withdraw all U.S. military forces from the island; and abrogate the U.S.-Taiwan mutual defense treaty.

A RATIONAL VIEW OF INTELLIGENCE WORK

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. MILFORD. Mr. Speaker, when I was home last weekend, I came across an extremely interesting and, to me, reasonable and rational discussion of national intelligence and counterintelligence moral and practical requirements which I would like to share with my colleagues.

The Los Angeles Times Service piece which appeared in the Sunday, October 5, edition of the Fort Worth Star-Telegram, was written by V. W. Hughes, a retired FBI agent who served in the Army Counterintelligence Corps during World War II.

At a time when both bodies of Congress are reviewing our national intelligence operations and needs, I believe Mr. Hughes offers a perspective which is worth the consideration of all of us in colleagues.

I would like to have this article, headlined "Intelligence Work Requires Behavior Outside the Norm", appear in the RECORD.

INTELLIGENCE WORK REQUIRES BEHAVIOR OUTSIDE THE NORM

(By V. W. Hughes)

Current congressional inquiries into the propriety of certain operations by American intelligence agencies have brought a host of revelations: that the Central Intelligence Agency attempted to "destabilize" foreign governments, often with success, and spied on U.S. citizens, and that the Federal Bureau of Investigation intercepted domestic mail and compiled dossiers on an unknown number of Americans—to mention only a few.

Unsettling as these facts may be, there is a question which each citizen should ask himself whenever he considers them: Was the act a issue performed under circumstances which justify the method employed? In asking this question, the citizen will not be alone: The Supreme Court takes a similar approach when deciding the constitutionality of arrests or acts of search and seizure. The court's expression is, "We must look at the totality of the circumstances."

It is exactly that approach which Congress should adopt when passing judgment on the actions of intelligence agencies—especially actions undertaken 10 to 20 years ago. Indeed, failure to judge the context of the intelligence agencies' actions has led some congressmen to the contention that opening mail, surreptitious searches without warrants, electronic surveillance and the use of informants and double agents are wrong under all circumstances. Simple reason ought to show us otherwise.

Charges that the CIA considered assassinating Patric Lumumba and Fidel Castro are, of course, another matter. Obviously there are certain forms of action which civilized nations should not take. However, these absolute prohibitions are rare, and beyond them a government must maintain the right to act according to the circumstances which confront it.

The Fourth Amendment to the Constitution, for example, clearly forbids only searches which are "unreasonable." Thus, should cases involving surreptitious entries, which the FBI admits were a part of its counterintelligence program, reach the Supreme Court, they might be held reasonable and, therefore, legal. The point is, of course, that to determine whether or not the entries were reasonable, the court would have to consider the circumstances in which they occurred.

Indeed, a recent policy statement by Asst. Atty. Gen. John Keeney had this to say: "It is, and has been, the department's view that warrantless searches involving physical entries into private premises are justified under the proper circumstances when related to foreign espionage or intelligence."

Implicit in the attorney general's statement is the notion that intelligence operations often take place in extraordinary circumstances. An analogy to war is not farfetched.

Nations, for example, usually regard homicide as a crime. Yet in wartime we teach and sanction the killing of the enemy, and, moreover, reward it. Why? Because war is outside the range of normal human conduct and justifies special methods—even homicide. This is not to suggest that intelligence operations require homicides. But war and intelligence operations are analogous in that both, each in its separate way, call for unusual behavior.

Assuming, then, that intelligence operations, like war, are outside the realm of normal conduct, is it feasible to ask an espionage agent to undertake extraordinary—often dangerous—work within the same framework of conduct required of our domestic police? Can an intelligence agent actually operate without ever violating the Fourth Amendment rule against unreasonable searches? Should he be required to read the Miranda rights to any suspect questioned and avoid all suspicion of entrapment?

Even the counterintelligence agent who usually operates within the borders of the United States would find it impossible to operate under such stricture. If his opponent is free to operate outside the range of normal conduct, and is even encouraged by his government to do so, the counterintelligence agent must act in kind or be placed at a tremendous disadvantage. If our Congress were to suspend all of those intelligence procedures currently under scrutiny, the CIA and FBI, which is charged with vital counterintelligence operations, might both be rendered ineffective.

This is not to suggest that America's intelligence services should be granted carte blanche. But there should be some recognition—especially by Congress—that intelligence operations are conducted under special conditions which should not be judged by orthodox standards. We should not decree, for example, that surreptitious entries are always wrong. Instead, we should decide under what circumstances it is correct to employ such methods.

To repeat CIA Director William Colby's question to the Senate committee before which he testified, "How many congressmen would have objected to an attempt on Hitler's life in 1944?" One might say, of course, "but that was different," and that is precisely the point in advocating flexibility of methods in the intelligence field.

Obviously the United States must not allow the civil liberties of its citizens and the practical needs of its intelligence agencies to become mutually exclusive. Indeed, the basic reason for the existence of intelligence operations is the protection of those liberties.

But just as a totally unrestrained and unaccountable intelligence agency poses a threat to liberty, so too does an agency so weakened by unreasonable prohibitions that it cannot respond to actual threats to freedom.

DECLARATION OF CONSCIENCE

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. RICHMOND. Mr. Speaker, in the spring of 1974, Kim Chi Ha, a noted Catholic poet in Korea, was arrested in relation to the "National Association of Students and Youths for Democracy" case. Sentenced to death, he was nevertheless released on February 15 of this year by a special Presidential order, only to be rearrested by the Korean CIA on March 13. Subsequently, the Ministry of Culture and Information announced that Kim had confessed in his own handwritten statement that he was a Communist.

Kim is detained in a dark cell where he is not allowed even a Bible to read. But somehow in mid-May he was able to write a 12,000-word memorandum which he entitled "Declaration of Conscience." It was smuggled out of the prison and handed to Father Yun Hyoung Jung, the past representative of the National Association of Catholic Priests for the Realization of Justice, who in turn made a most difficult decision to send it overseas—to Father James Sinnot—to be made known to the world.

The "Declaration of Conscience" follows the precedent set by Bishop Chi Hak Soon, "to declare one's conscience before one is arrested in order to assure that any statements of freedom will be seen to be invalid."

Recently, I wrote to Assistant Secretary of State, Robert J. McCloskey, about this case and he replied to the effect that the actions the Department of State could take in this case "are limited." He went on to paraphrase testimony Assistant Secretary of State, Phillip C. Habib, gave before a House Committee investigating human rights in Korea. He stated that:

The United States Government is not involved in the internal actions of the Korean Government.

However, he went on to say that the Department of State has repeatedly informed the Korean Government of the adverse effects their domestic actions may have on the "traditionally favorable public and congressional attitude in this country toward Korea."

If the mail I am receiving from my district is any indication, I believe Mr. Speaker, that the Department of State's advice to the Korean Government about the change in public opinion in this country is indeed valid.

Now, Mr. Speaker, I would like to in-

sert into the RECORD the first part of Kim Chi Ha's "Declaration of Conscience," so that my colleagues can share his thoughts on democracy in South Korea and his defense against the charges placed against him by the Park government:

A STATEMENT OF CONSCIENCE

To all who cherish justice and truth.

The Park regime is tying me up in a conspiratorial net of incredible lies. They say I am a communist who infiltrated the Catholic Church and pretended to be an advocate of democracy and human rights. I have been arrested and imprisoned on these charges.

The authorities will soon begin a courtroom charade to "legally" brand me forever as a treacherous Marxist-Leninist agent. I will be impressed into the ranks of that legion of government-designated "communists."

I am not the only target of this conspiracy. It is directed at the whole movement to restore democracy and at the Christian Church which has been fighting for social justice. The authorities are particularly determined to label as pro-communist the Association of Catholic Priests for the Realization of Justice, the National Council for the Restoration of Democracy, and all youth and student movements. This is the forerunner of a broad crackdown on dissent.

The government has been making these vile charges against me for more than a decade; they are nothing new. I should prefer not to waste words with a personal defense here. The Korean Central Intelligence Agency (KCIA) agents say, "If you have a statement to make about these charges, do it in court." For once I agreed with them. I intended to do just that: to try to bring out some of the truth about this travesty during the trial by challenging the prosecutor.

However, the current political situation compells me to speak out now. It is not just my convictions and my credibility that are endangered. The net has been thrown widely to encompass all domestic forces, my church and the student movement. I owe it to history and the Korean people to state my beliefs and the facts about my arrest as I know them.

1. AM I A COMMUNIST?

I have never in the past thought of myself as a communist, and I still do not. I am not a communist. The KCIA charges against me should be patently absurd. My lawyer has told me they have taken the "confession" I was forced to write and have made it public to prove that I am a communist. (The KCIA is distributing a pamphlet entitled "The Case Against Kim Chi-Ha, The True Identity of the Poet" which includes Kim's confession, excerpt from his prison notes, list of books seized at his home, etc. Eo.) The "confession" in the pamphlet is called Statement No. 2 but actually it was the third one. The KCIA discarded the second statement but still numbered the third version as No. 2. These details aside, it is true that the document was writen by my hand.

But not by my mind and soul. It was not a voluntary statement. I was a powerless individual in an underground interrogation room of the KCIA's Fifth Bureau. They were the almighty agency of state terror, beyond any law or decency. How much truth do you think there is in those sheets of paper, my "confession?" From the time of my arrest I was pressured to say that I was a "communist who had infiltrated the Catholic Church." The government had decided to destroy me politically and religiously. They were going to crush me until I was flattened out like a piece of dried cuttlefish. I resisted my interrogators and refused to "confess." The grilling continued for five or six days, I think. Finally they wore me down. I had not been in good health before my arrest; I had fainted several times due to anemia, and I was suffering from chronic insomnia. The constant questioning left me physically exhausted and delirious.

I knew the Park regime would use any means necessary to convict me as a communist. It did no good to keep telling the interrogators that I was innocent. They had strict orders from their master to "Get Kim Chi Ha" regardless of the facts. The KCIA agents were cogs in the machine; they could not refuse that order. They were ashamed of what they were doing but they hammered away at me day and night. I saw no point in continuing the nerve-wracking war of attrition against such pitiful men!

Finally, on the sixth day, I wrote out a statement which they dictated. I scribbled it down like graffitti on a toilet wall and threw it at them. That is how my "confession" was written.

As one might expect, the statement is full of lies and inconsistencies. There is the banal wording so dear to the KCIA hacks: "I became a communist out of a sense of inferiority and frustration due to poverty and illness." This is the vilest part of the document. They used the same phrasing over and over again when I was indicted in 1970 for writing "Five Bandits," for "Groundless Rumors" in 1972, and in the National Federation of Youth and Students incident in 1974. There is a materialistic determinism in the phraseology, as if all the poor and afflicted are "potential communist criminals." Would any self-respecting person write such craven drivel of his own free will?

According to the "confession," all my activities, including writing "Five Bandits" and "Groundless Rumors," were due to my communist ideas. I wonder if foreign readers of these poems were deceived by my communist propaganda? There must be many red faces among those foreign literary critics who praised my work and did not even realize that it was "communist propaganda." If "Five Bandits" is communist literature, why have the charges against me been pending for more than four years! And why was I not even indicted for "Groundless Rumors?"

The "confession" says that I am a communist and a Catholic. That is an antimony like being "a democratic fascist." Every school child knows that communism regards religion, especially Christianity, as the "opiate of the masses."

I understand that the KCIA pamphlet cites a few books I had in my possession as "proof" that I am a communist. They are so stupid! Their petty, frightened police state minds! No matter how severely intellectual freedom is restricted in South Korea, does reading a few Marxist classics make a person a communist? The most avid readers of leftist books are the censors who check every piece of literature that comes into this country. If they can read those materials, why is it a crime for me? I have read hundreds of books; the authorities seized fewer than ten. Every one of those without exception is a classic that any foreign intellectual has read.

The KCIA pamphlet reproduces some of the notes I jotted down in prison from April, 1974 until February. Again those memorandums and notes are supposed to be "proof" that I am a communist. Those notes contain all kinds of thoughts and emotions. Ideas that flitted into my mind like birds flitting past my cell window. There are ruminations on this or that, outlines of projects I hope to write about in the future. Bits and pieces, unconnected fragments. They do not show that I am a man ideologically committed to communism. If the government will make public all my notes, the charges against me will fall of their own weight. Anyone who examines the material will see my values: my hatred of oppression and exploitation, my groping in the political wilderness for a way out of these iniquities, how I have driven myself in the quest for answers! This search has nothing to do with communism.

How should I define my ideological position? Before I attempt that, two points require clarification.

First, I regard myself as a free thinker not bound by any ideological system. I hope my ideas are neither shaped by personal ambition nor yield to intimidation and that they are also unfettered by any dogma or creed. Thus I have never defined myself as an adherent of any "ism." I belong in the creative tension formed by the chaos of freedom. A natural pool swirls with cross currents of ideas, values, systems, experiences. By diving into that pool again and again I hope to come up with a few grains of truth. I stand beside that pool poised for the next dive.

Secondly, I am ideologically unfinished. That's a crude way of saying that I have never accepted one ideology as my operative value system. So far I have never found one system of thought that was logically convincing. I am still looking. In a sense, this is a shameful admission, but there are extenuating circumstances, I think. An individual's beliefs and conscience must be free, and the process that shapes them must also be open, competitive, eclectic. Man has a natural right to find his own values. Even the Yushin Constitution, promulgated by Park Chung Hee in December, 1972, guarantee this right to South Korean society. Nevertheless, intellectual life and value formulation are totally controlled in our country. A single ideology with its priorities, preferences, tabus and sanctions is dominant.

Consider the spiritual ethos of South Korea. The flow of information is controlled. One can only read a limited number of authorized books. Anti-intellectualism and pervasive secrecy are the rule. I have tried, often with doubts and remorse, to find the truth in this darkness. I am not the only one. Every South Korean who sought to understand what is going on in this country and in the world has trod the same uncertain, dangerous path. My ideological education is incomplete.

Under these conditions surely there is virtually no possibility of autogenous communism sprouting here. Our conditioned reflex to "communists" was to imagine red-faced devils with horns growing out of their heads and long claws dripping with blood. Every South Korean below the age of thirty has been educated and indoctrinated this way. Furthermore, we have never been taught anything about communism except emotional diatribes against it. Even if a few curious people secretly read some leftist books, how could they turn into full-fledged communists with a firm grasp of dialectics, party history and doctrine? No "autogenous communist" could emerge from the younger generation. That includes me. Far from being a committed communist, as the KCIA charges, I have no reliable information about the nature of communism or what life is like in a socialist country. The charge that I am a communist is utterly groundless.

2. DEMOCRACY, REVOLUTION, VIOLENCE

I want to identify with the oppressed, the exploited, the troubled, and the despised. I want that love to be dedicated, passionate, and manifested in practical ways. This is the totality of my self-imposed task for humanity, the alpha and the omega of my intellectual search. I hope that my odyssey will be understood as a love for mankind.

My desire to love the brotherhood of man makes me hate the oppression and exploitation that dehumanizes him. He who exploits others corrupts himself. Thus I fight against oppression and exploitation; and the struggle is my existence.

I became a Catholic because the Catholicism conveyed a universal message. Not only

the spiritual and material burdens could be lifted from man but that also oppression itself could be ended by the salvation of both the oppressor and the oppressed. Catholicism is capable of assimilating and synthesizing these contradictory and conflicting ideologies, theories, and value standards into a universal truth.

My beliefs spring from a confident love for the common people. I have opposed the Park regime and ridiculed the "Five Bandits" because they are the criminal gangleaders looting this country. I have grown up as one of the oppressed masses. That perspective enabled me to see that a pernicious elitist bias permeates our society. The oppressors say the masses are base, ugly, morally depraved, irrately lazy, untrustworthy, ignorant and a spiritless, inferior race. But the common people I have known were not like that. They were honest and industrious. They may have looked stupid to a Seoul bureaucrat but they were endowed with a rich, native intelligence. Although they seemed listless, they possessed enormous inner strength and determination. They may have been rough, not very sophisticated, but they had genuine affection for their friends and neighbors. The common people I knew were proud, full of an unassuming vitality.

I have total confidence in the people. Given the opportunity they will find correct solutions to their problems. And their time is coming. The people cannot be denied their rights and justice much longer. My confidence in the people has led me to trust their ability to determine their own fate.

Those who fear the people, who find the masses despicable, are ipso facto not democrats. When the going gets rough, they will stand with the oppressors.

What is democracy? It is an ideology opposed to silence, a system that respects a free Logos and freedom of speech. It encourages the cacophony of dissent. A political system where everything is not revealed to the public is not a democracy. I believe that the truth, only the truth, will liberate man. A public consciousness dulled by soporific incantations and smothered in darkness can be liberated by the truth. Only when the people struggle out of the darkness, driven along by the very chaos of their opposition to authority, will they reach the sun-drenched fields. Then they can head toward Canaan, the land of justice and freedom promised by the Creator. This is my dream, my faith.

I cannot describe Canaan in detail. No one man can do that. I think it will be created by the collective effort of all the people. My task is to fight on until the people hold the power in their own hands to shape their destiny. I want a victory for real democracy, complete freedom of speech. Nothing more, nothing less. In this sense, I am a radical democrat and libertarian. I am also a Catholic, one of the oppressed citizens of the Republic of Korea, and a young man who loathes privilege, corruption, and dictatorial power. This defines my political beliefs. I have nothing more to add.

Democracy does not require a "benevolent ruler who loves the people." A ruler who fears the people's wrath and weapons is preferable. Democracy entails an uncompromising rejection of oppression. There is no democracy as long as the people depose an undesirable ruler. Thus democracy does not deny the people the right of revolution; on the contrary, that fundamental right is the last guarantee popular of sovereignty. This obvious truth must never be forgotten.

The right of revolution, the constant and eternal possibility of overthrowing illegitimate authority, is the ultimate sanction against misrule that enables the people to defend themselves from oppression and exploitation. Rulers, of course, make revolution illegal; even discussion of it is banned as subversive. Thus they can continue their political and economic domination. But that is why I must support resistance and revolution.

I feel enormous pride in our Korean traditions. The people have often protested against injustice and misgovernment. Unfortunately, the rulers, irredeemably callous and arrogant, often crushed the protests with force. Under these circumstances have the people any choice but revolution?

Catholic political thought since Thomas Acquinas has explicitly recognized the people's right and duty, based on natural law, to overthrow a tyrant who threatens their existence and the common good. Resistance abruptly changes the course of human affairs. The people themselves recover their humanity. The masses undergo a sudden and profound awakening; history makes up for lost time by encouraging the people to miraculous feats.

Sooner or later resistance and revolution lead to the phenomenon of violence. When the violence of authority sustains oppression, the people's will is crushed, their best leaders are killed, and the rest are cowed into submission. The "silence of law and order" settles grimly across the land. Then an antithetical situation exists where violence must shatter this macabre order. To a degree, I approve of this kind of violence. No, that is not strong enough. I must approve of it. I reject the violence of oppression and accept the violence of resistance. I reject dehumanizing violence and accept the violence that restores human dignity. It could justly be called a "violence of love."

Jesus used his whip on the merchants defiling the temple. That was the "violence of love." It was force suffused with love. Jesus wanted the afflicted and their oppressive rulers to be reborn again as true children of God.

Violence and destructiveness obviously bring suffering and hardship. But we must sometimes cause and endure suffering. Never is this more true than when the people are dozing in silent submission, when they cannot be awakened from their torpor. To preach "non-violence" at such a time leaves them defenseless before their enemies. When the people must be awakened and sent resolutely off to battle, violence is unavoidable. Ghandi and Franz Fanon agonized over this dilemma. Father Camilio Torres took a rifle and joined the people. He died with them, the weapon never fired. The fallen priest with his rifle epitomized godliness. I do not know if his beliefs and methods were correct or not, but the purity of his love always moves me to tears. He staggered along his road to Golgotha with uncertain tread. He was prepared to commit a sin out of a love for others. He was not afraid to burn in the depths of eternal hell.

True non-violence requires total non-compliance and non-cooperation. It concedes nothing to the oppressors. The superficial kind of non-violence, which makes limited gestures of opposition, is just another form of craven cooperation with authorities. Cowardly non-violence is moral equivalent to cruel violence because with both the people get crushed. On the other hand, the "violence of love" is essentially the same as a "courageous non-violence" in that it arms the people against their foes. I approve of the "violence of love" but I am also a proponent of true non-violence.

The revolution I support will be a synthesis of true non-violence and an agonized violence of love. (I am now working on a long ballad, "Chang Il Tam," set against this background.)

To teach that golden mean, a non-violence that does not drift to cowardly compromise and a violence that does not break the bonds of love and lapse into carnage, mankind must undergo an unceasing spiritual revival and the masses must experience a universal self-awakening.

While I grant that the violence of Blanquism can light the psychological fuse to revolution, I do not anticipate nor support a "lucky revolution" achieved by a small number of armed groups committing terrorist acts of violence. That is why I have eschewed the formation of or membership in secret organizations and have participated in activities consistent with the democratic process: writing and petitions, rallies, and prayer meetings.

My vision of a revolution is one to create a unified Korea based on freedom, democracy, self-reliance, and peace. More fundamentally, however, it must enable the Korean people to decide their own fate. I can confidently support such a revolution.

That revolution will not follow foreign models or pattenrs, but flow from our unique revolutionary tradition. The Tong Hak rebellion, the March First independence movement, and the 1960 April Student Revolution adumbrate the next revolution.

ENERGY POLICY AT HOME

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. ANDERSON of Illinois. Mr. Speaker, the Washington Post this morning published a most lucid and sobering description of the energy policy produced by this body to date as represented in H.R. 7014. It deserves to be drawn to the attention of my colleagues.

I am not at all convinced that in our recent haggling over oil and gas pricing here in Washington have we kept very close touch with the pulse of our people and how they were responding to higher energy prices and shortages. If we had, I think that our two attempts at drafting energy legislation would look a good bit different than they do right now. Furthermore, it is highly likely that our efforts would not have been an essentially futile effort, impossible for a responsible President to sign into law.

I would also like to note, Mr. Speaker, that it is encouraging to me that in the last 2 years our country has again proved itself to be resilient and sound. As the Congress has struggled mightily to formulate an energy policy, our people were making their own adjustments. With their pocketbooks they were creating a marketplace in which they were able to survive higher energy prices and shortages. They demanded cars with better mileage, appliances with better efficiencies, et cetera, and as the Post points out, they are getting results.

My compliments to the editorial board of the Post for a fine piece of journalism, humbling as it turns out to be for some Members of the majority party in the Congress.

I include the editorial for those of my colleagues who may not have seen today's edition:

SMALL CARS AND ENERGY POLICY

Americans are proving more canny these days than their government, as they think about fuel and energy. The most interesting example is the state of the automobile industry. The customers are turning away from the big cars of tradition, and the manufacturers are running along anxiously behind them to catch up. But the long stalemate between the White House and Congress con-

tinues, giving strength to the illusion that, in regard to energy and saving it, nothing at all is happening. That stalemate still shows little sign of ending.

The House of Representatives has just passed its Energy Conservation and Oil Policy Bill in a bizarre and ludicrous form that deserved another veto. It can be argued that the section making it a crime to sell gasoline for cross-busing school children, under racial desegregation plans, is merely frivolous. But one section of this bill would roll back the price of oil, while another orders the President to find a way to reduce the nation's consumption of gasoline. The House expresses the hope that there would be no lines—or at least not long ones—at the filling stations. But it authorizes extensive production controls to require the refiners to cut back the amount of gasoline actually produced.

Do you suppose that most Americans are aware that the House has just voted to create a deliberate gasoline shortage? Do you suppose that most people realize that this bill contains a broad exemption to the anti-trust laws for the people who sell gasoline, to permit them to engage in the market-sharing plans that this intricately calculated shortage would require? But the House Democrats are in a box. They recognize the urgent national interest in curbing gasoline consumption, yet they are committed to reducing prices. To fit these two irreconcilables together, they require an artificial shortage and an allocation system of vast complexity. To meet the challenge of a foreign producer's cartel, they want to cartelize the whole American gasoline industry.

The legislative stalemate runs as far as the eye can see. From the perspective of Washington, which thinks of progress in terms of laws passed, it looks as though nothing at all is being done to cut oil imports and the waste of energy. But, in fact, quite a lot is being done—if not by Congress or the White House. Take a look at the cars passing on the highway.

As recently as 1973, two out of every five cars sold was a compact model or smaller. In the model year now beginning, the Federal Energy Administration estimates, three out of five will be compacts. In 1973, the average new car ran less than 14 miles on a gallon of gasoline. The average 1976 car will go 17.6 miles on a gallon, according to the Environmental Protection Agency. The automobile manufacturers have committed themselves to President Ford to get the average up to 19.5 miles to the gallon by 1980. The House would go the President one mile better and require an average mileage of 20.5 by 1980. In the midst of all this churning and standard-setting, General Motor's Chevette appears on the street. EPA says that it gets 33 miles to a gallon in its driving tests, the only American car on the top rung of the international economy rankings.

From the Washington perspective, again, it might seem that steady pressure from the President and Congress are forcing the manufacturers to change their ingrained tribal ways. But it is probably a good deal more accurate to say that government and industry together are responding, a bit belatedly, to a genuine and powerful swing in public values. General Motors designed the Chevette to recapture some of the market that it has been losing to imported cars. Two-thirds of the Chevettes sold over the next year, GM believes, will go to buyers who would otherwise have chosen a foreign car.

Automobile sales constitute, in a narrow but authentic sense, a continuous referendum on one aspect of energy policy. The returns so far offer solid evidence that—despite the assertions of the House Commerce Committee to the contrary—people react sharply and rationally to rising gasoline prices. The country's political leaders can't work out a consensus on oil, and citizens are prudently moving to take care of themselves. The trend to more economical and efficient cars means that Americans are beginning to build themselves a national energy policy from the bottom up—without much guidance from their government, but with a good sense of present necessity and future prospects.

OSHA—A FOUR-LETTER WORD

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. BAUMAN. Mr. Speaker, we are continually reminded of imperfect institutions in our society which prevent the realization of a better world. One of the more imperfect ones is a four-letter word which has become the most unpopular acronym in a working businessman's vocabulary.

OSHA, the so-called Occupational, Health, and Safety Administration does little to effectively prevent the continued and unnecessary exposure of employees to unsafe conditions of which many employees are unaware.

Instead, it issues unreasonable regulations which were drawn up without any consultation with employers and employees, making compliance difficult and inviting resentment against this Government agency and, by reflection, against the Government.

Bill Miller, the vice president of the McMahon Oil Co., in Easton, Md., recently wrote to me illustrating how impossible it is for a small business to survive against OSHA's continued harassment. I submit it, my response, and a recent column by Governor Ronald Reagan which deal with this problem for the RECORD, and I draw them to the attention of my colleagues.

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 9, 1975.

Mr. W. C. MILLER,
Vice President, McMahon Oil Company, Easton, Md.

DEAR BILL: Your recent letter citing many of the problems your company is having with OSHA illustrate what is happening everywhere. The points raised in your letter are particularly telling, and with your permission I would like to put your letter in the *Congressional Record*.

The Occupational Safety and Health Act of 1970 has lead to instances of harassment and bureaucratic inefficiency which have discouraged economic growth at the worst possible time. I have always felt that we could at least amend that Act to provide for a fair system of onsite consultation without penalties and to ease the economic burden of compliance. I do not like this Act being law, but if we must have it I am certainly in favor of working with like minded colleagues to assure that we can make the enforcement procedures more equitable.

As you cited in your letter, Bill, the effect of OSHA has been to inhibit promotion of the cooperative effort needed to truly provide worker safety. After three years of operation, the program still has no adequate advisory program of onsite consultation which would help employers and employees alike in complying with the law. The unfortunate means OSHA uses to carry out the letter of the law end up violating the spirit of the law.

It is great to hear from you, and please write again when you get a chance. Call on me if you ever need help in any matter.

Faithfully yours,

ROBERT E. BAUMAN,
Member of Congress.

MCMAHAN OIL CO.,
Easton, Md., September 24, 1975.

Congressman ROBERT E. BAUMAN,
Easton, Md.

DEAR BOB: For quite some time now I have been concerned about the number of federal and state agencies who call, investigate, etc. . ., here at the McMahan Oil Company. To give you an example of what I mean on September 5th the federal OSHA representative and the state OSHA representative spent two hours here looking over our two terminals and writing a few citations which, of course, we were required to correct. Just as they were finishing up on the same date, the state Air Quality Control representative appeared and needed assistance in filling out a form which needed to be filed on McMahan Oil Company. The next week the Federal Energy Administration sent two representatives in who have been here for three weeks off and on, which required our giving office space and other assistance needed to perform their duties. Next I received a phone call from the IRS indicating that on Friday, September 26th there would be a representative in our plant to review records pertaining to the "rolling stock" report filed with them earlier this year.

I am at a loss to explain to you just how we will be able to continue to operate this small business if these federal and state agencies do not allow us to get down to the business of supplying our market area with the petroleum products which are needed by our customers for them to get along in their every day lives. I have not yet mentioned the other agencies who regularly stop in to see us, such as the Coast Guard, the National Fire Protection Agency, the Department of Natural Resources, Water Resources Administration and others.

I bring this to your attention because I know that this type of bureaucracy problem is exactly what you refer to at times in your public statements. The independent business man must get relief soon from this type of harassment because I feel that "Big Government" will eventually eliminate the incentive factor that keeps the independent business man operating. I realize this letter is philosophical in nature and I offer it only as food for thought. What are your thoughts?

Very truly yours,

W. C. MILLER,
Vice President.

OSHA: A FOUR-LETTER WORD

(By Ronald Reagan)

"OSHA" is a four-letter word that's giving businessmen fits and is helping drive up consumer costs. And, there's no relief in sight.

One of the youngest federal regulatory agencies, the Occupational Safety and Health Administration, since 1970 has had the job of carrying out "the intent of Congress" by devising regulations implementing the Occupational Safety and Health Act.

Congress' intent was to protect the safety and health of the American workers—a commendable goal. But OSHA's regulations and tactics are something else again—a "Catch-22" of arbitrariness that is costing business (and the consumer) millions of dollars a year.

OSHA's regulations fill a shelf 17 feet long (even the "Harvard Classics" took up only five feet), and businessmen are expected to

know which ones apply to them if an OSHA inspector drops by. If they don't, and their plant doesn't conform to the regulations they're subject to stiff fines.

One might have thought that OSHA would have offered an initial no-penalty inspection to a business seeking to learn if it complied, with a grace period for correcting deficiencies. No such luck.

If you call for an inspection, you are subject to the same penalties. You can pay your insurance company to make an inspection, but there's no guarantee that OSHA won't come along later and find some overlooked deficiency.

Civil liberties don't count for much with OSHA, either. Its inspectors can barge in on a "no-knock" basis without the owner's permission or a search warrant. It has even had this right confirmed recently by a federal court.

Excess paperwork, the security blanket of bureaucrats, is required by OSHA of the businesses it regulates. This torrent of paper and words is reflected in the gobbledegook language of OSHA's regulations, too.

Here is how they define an exit: "That portion of a means of egress which is separated from all other spaces of the building or structure by construction or equipment as required in this subject to provide a protected way of travel to the exit discharge. . . ."

Application of OSHA's regulations is almost whimsical. The owner of a small business in one western state was told he had to install separate men's and women's restrooms for his employees. He had only one employee. At home they slept in the same bed and used the same bathroom. She's his wife.

There is more of the same on the way. Antinoise regulations for trucks are now under discussion. One would require truck cabs to be so soundproof that drivers could not hear horns or emergency vehicle sirens.

The solution? A panel of lights in the truck cab which would flash when activated by such sounds. Result? More expensive trucks, higher freight rates, and higher costs of the things you buy.

Talk in Washington is serious these days about deregulating—at least partially—the airline, trucking and railroad industries to sharpen competition and lower consumer costs.

There is little evidence that OSHA has accomplished much in the way of saving lives, all the while it has added heavy cost burdens and created a bureaucracy with a growing appetite for tax dollars. Yet, there is little talk of reforming or eliminating this regulatory labyrinth. It's overdue.

LEIF ERICSON AND NORWEGIAN AMERICANS

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. QUIE. Mr. Speaker, today, by Presidential proclamation and acts of Congress, we observe two events—the landing of a group of Norse adventurers on North American shores in about the year 1001, and the landing of the first boatload of emigrants from Norway at New York in 1825.

Of the first voyage, we know that a ship's crew led by a young Norseman named Leif Ericson, motivated, apparently, by no more than an explorer's heart searching to unlock secrets of unknown seas, did reach the continent. They found land covered with forests which they dubbed "Markland" and, farther down the coast, an area rich in wild, sweet grapes, the "Vinland" of the sagas.

Why the small settlements with men, women, and children resulting from subsequent voyages did not flourish in the new land is still clouded history. We do know that later on the great impact of Scandinavian influence in America was left to people like those who sailed from Stavanger, Norway, on the "Restauration" and came to stay. Many of them moved through the settled country into the prairies and woodlands of the American Midwest. There were only 47 of them, but their numbers have multiplied and today we see the influence of the Norwegian Americans in every facet of American life.

Of Leif Ericson himself, the sagas also tell of his bringing a new faith, Christianity, back to his home in Iceland, having been converted by Norway's King Olav Trygvasson of his father's homeland.

Leif Ericson might be surprised if he could see the influence of his Northland in our America. When embarking on his voyage, however, he may have been drawn by a sense of adventure and strengthened by the determination that also moved the pioneers of a much later day. An American of Scandinavian descent Carol Johnson of my staff, wrote this poem which I share with you in commemoration of this day.

LEIF ERICSON

You set the sail
You fix your eye.
The grey horizon offers
Bleak sky, wind, and sea—
Nothing more.

What is this, then?
This tugging at your breast?
You go a way—a little way—
Beyond where you have sailed before,
Into the storm.

Turn back, you ask—
To hearth, and feast and love?
But now the sea grows calm.
A little way—
The sky is blue. The men are strong.
A little way—
The shapeless mists awaken
And the sail
Bends forward with your heart
To meet the land.

FTC STUDY QUESTIONED

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. FINDLEY. Mr. Speaker, judging from the activities of the Federal Trade Commission, one would conclude that funeral directors are all a bunch of unscrupulous thieves.

I have yet to meet one of that stripe. As a newspaperman in my early years I had occasion to be with funeral directors often and under many varied circumstances. My experience supports the conclusion that the profession is an honorable one, filled with people determined to give fair, efficient services at times of extreme emotional stress.

No doubt the profession contains a few bad apples. What profession can claim otherwise? However, the National Funeral Directors Association and—I might add—the Illinois Funeral Directors Association is extremely strict in upholding the standards of the profession. The code of professional practices for funeral directors is carefully adhered to, with offenders disciplined by the ethics committee.

I quote my good friend Harlan Williamson, the owner of a funeral home in Jacksonville, Ill.:

I have just finished serving two years on the Ethics Committee of the Illinois Funeral Directors Association. In that period of time, I can recall only one instance of possible unethical conduct.

He goes on to point out surveys showing that almost 98 percent of the families served return to be served again by the same funeral firms. Somebody must be doing something right.

The FTC reports indicated approximately 80 complaints since 1973, during which time almost 4 million funerals were conducted. Could intervention by the FTC improve the record of 1 complaint per 50,000 funerals?

ADDRESS BY SENATOR CLAIBORNE PELL AT WAGNER COLLEGE

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. MURPHY of New York. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following remarks made by the distinguished Senator from Rhode Island at the 93d annual convocation of Wagner College:

ADDRESS BY SENATOR CLAIBORNE PELL

I am honored and delighted at this opportunity to share with the students and faculty of Wagner College this opening of your academic year.

The beginning of a new academic year is, in some ways, more impressive and important than the commencement exercises that conclude the year.

What we have gathered here today is a community—of faculty, administrators and students—whose presence signifies a shared and significant commitment—a commitment to knowledge and to reason as essential elements of human life. That basic conviction—that knowledge and reason are essential to human fulfillment—is so much a part of our civilization and culture that we often take it for granted. In human history, however, that conviction has not always been widely shared, and in my view it is a conviction that cannot be too often restated and celebrated.

That is one reason why I am happy to be here; to share with you this rededication to knowledge and reason.

I come to you as a member of another institution, the Congress of the United States, that, correctly or incorrectly, is not always held in high esteem for its pursuit of knowledge or its application of reason.

Indeed, opinion polls tell us that the public generally has a very low opinion of the Congress as an institution. The Congress is not alone in the apparent loss of confidence

among the public. There has been, I believe, a general loss of faith in our American democratic processes. And, indeed, no branch or level of government has been spared in the growing disillusionment with government.

This public mood is, and should be, a matter of serious concern for all Americans, because a democratic government must rest ultimately on the assent and the confidence of the people in the processes of government.

I would like today to discuss with you some of the reasons, as I see them, for this disillusionment with government, and what can be done to restore confidence.

At the outset let me say that disillusionment with government is a particularly accurate description of what has taken place. Disillusionment, taken literally, means getting rid of illusions. To some extent we have suffered from illusions about our government and its ability to shape the world and our society to our own design. We learned in Southeast Asia, in our dealings with the oil-producing countries, in our efforts to curb crime and eliminate poverty in our own country, that the vision of omnipotence was an illusion. There are in fact limitations on what we can accomplish.

The purging of these illusions has been a painful and very unhappy process for all of us—but in the long run it is a necessary and healthy process, because government policies based on illusions, instead of realities, are at best doomed to failure and at worst invite disaster.

Another element in the erosion of public confidence has been a crisis of leadership which has haunted us for the past decade. It is no exaggeration to say that no President elected by the people of the United States since the assassination of President John Kennedy in 1963, has been able to sustain the confidence of the American people. To an American public accustomed to sustained Presidential leadership—through Franklin Roosevelt, Harry Truman, Dwight Eisenhower and, all too briefly, John Kennedy—this past decade has been frustrating and traumatic.

A third element in the loss of confidence in government is that some of our government processes had become subject to real abuses. The whole gamut of abuses involving campaign finances and misuse of government power that are encompassed by the term Watergate were a real reason, not for disillusionment, but for public outrage and for reform.

As a member of the Senate, I am naturally most concerned about the apparent loss of public confidence in the Congress. There are, I believe, particular factors at work that have led to a derogation of the Congress as an institution, and I would like to discuss them briefly.

First, however, I think the public view of the Congress should be put in some perspective.

With few exceptions in our history, I think, neither the House of Representatives, the Senate, nor the Congress as a whole has been considered entirely admirable or loveable. Indeed, it is part of American political tradition for some to regard with scorn any legislative body—be it a city council, a state legislature or the Congress.

As evidence that a mild contempt of the Congress is nothing new, let me cite a few quotations from our history:

Sergeant S. Prentiss, in a letter to his sister in 1833 said, "You have no idea how destitute of talent are more than half of the members of Congress. Nine out of ten of your ordinary acquaintances are fully equal to them."

And in 1864, General Robert E. Lee, wrote to his son, Custis, about the Confederate Congress, saying, "I have been up to see the Congress and they do not seem to be able to do anything except to eat peanuts and chew tobacco, while my Army is starving."

And, as a final example, S. L. Clemens, (Mark Twain) perhaps the greatest of Congress-baiters in our history, commented in 1907 that "Fleas can be taught nearly anything that a Congressman can."

So exasperation, and something less than awesome respect for the Congress, is nothing new in our history. Legislative bodies are usually regarded as being slow-acting, obstructive, confused, wrangling, wordy, and grossly inefficient.

There is some measure of justification for all of those criticisms as they apply to the Congress.

But I also believe that much of the current criticism of the Congress misses the mark because it is based on a misunderstanding of the role of the Congress in our government, particularly as it contrasts with the role of the executive branch.

Indeed, I think we have seen a strange inversion in the standards by which the executive branch and the legislative branch of our government are judged. The public, and particularly the press, tend to judge a President and the executive branch on the basis of the policies espoused and pursued.

The Congress, on the other hand, is often judged on how efficiently it operates, how quickly it moves to enact legislation to solve national problems.

These standards of criticism and evaluation, I believe, are upside-down. In truth, it is the Executive Branch which should be judged on its efficiency and effectiveness in executing policies.

And it is the Congress which should be judged on the basis of the national policies it promulgates as legislation.

Perhaps, in this Bicentennial year, we should go back and read the Constitution and the debates by the delegates to the Constitutional Convention in establishing the framework of our government. The focus of their debate was not whether the legislative branch would be efficient—on the contrary, their primary concern, as I read it, was that the Congress be representative of the nation.

I would contend that many of the symptoms of Senate inefficiency and ineffectiveness, which are regularly deplored in the press, are, in fact, signs that our democratic processes are alive, vigorous and healthy.

For example, the Congress is under heavy criticism now for our failure to establish by law a comprehensive national energy policy, including energy conservation and energy resource development. I, too, am unhappy at our failure to establish national energy policy legislatively. But, realistically, I think the failure of the Congress means that no national concensus has developed on energy policy. In this instance, and I believe in most instances, the Congress is in fact very representative of the people.

I would argue that what the press tends to view as a failure of the Congress in energy policy, is in fact democracy in action. While the Congress has not enacted a national energy policy, it has been vigorously engaged in the complex process of developing policy in a democracy. The Congress has been bringing forward every possible alternative policy, examining them from every side, debating them, testing their acceptability and support in committee votes and floor votes. In this process the choices, and their implications for every region, every industry, and every individual, are becoming clearer. And out of this process eventually will emerge a national energy policy.

It is not a neat, orderly or precise process. But, as I said earlier, democracy itself is not the easiest, most efficient, or most orderly and precise way to arrive at national policy. It is just the way under which the individual has the greatest freedoms and I for one consider best.

Invariably, as the Congress draws toward the end of a session, and adjournment looms ahead, the Senate becomes involved in prolonged debate, filibusters and tangled parliamentary maneuvers. Just as inevitably, there will appear a spate of newspaper editorials and commentary chastising the Senate for tieing itself in knots while the nation's business lies waiting.

The truth, I believe is that the intensity of debate and parliamentary maneuvering simply signifies that the Senate is dealing with issues that are controversial and touch upon sensitive nerves of significant segments of our population.

Once again, it is democracy at work.

Perhaps the day will come when the Senate of the United States will sail smoothly through a legislative session in six months, adjourning before the Fourth of July, without filibusters, discord, or wrangling. When that happens, I think we should start worrying about the health and vigor of the Senate as a representative, responsive, democratic institution.

In all of this, I do not mean to dismiss the possibility or desirability of improvements in the Senate to make the institution more responsive, more effective or more perfectly representative. For example, reforms in our campaign financing laws, enacted in the 93rd Congress, are, I believe, an important step toward improving the responsiveness of the Congress to the people.

And internal reforms, such as the decision by the Senate this year to permit cloture on debate to be invoked by a vote of 60 Senators, was an important step in balancing the protection of minorities and the interest of a majority.

In terms of operating efficiency, the Senate and the House have made major changes in the past several years designed to assure that the members will have necessary information available to them. We have established an Office of Technology Assessment, to provide technical information; we have installed computerized legislative information services; we have increased substantially the research capabilities of the Congressional Research Service of the Library of Congress. There is active consideration of permitting live radio and television coverage of Senate proceedings.

All of these changes are evidence that the Senate remains a vital, vigorous institution, capable of keeping abreast of the times, despite all of the talk about antiquated inkwells on our desks.

I do not expect to see the day arrive when the Senate and the House of Representatives will be accorded universal reverence. A degree of skepticism and civil criticism is healthy.

I do think, however, that it is important that criticisms of the Congress, particularly by the press and television, be well directed and based on a deeper understanding of the functions of the institution.

The first question in evaluating the performance of the Congress, is not whether it has been efficient, speedy, or even enlightened in the policies it has pursued through legislation. The first question is whether the Congress is representing the people. After all, our democracy is based on the conviction that the people are best able to determine their own destinies, through their elected representatives.

And, conversely, in evaluating the Executive Branch of our government, it would be healthy if there were less emphasis in our media on what policies the executive branch is attempting to pursue through its legislative program, and a great deal more emphasis on how well, faithfully and efficiently the executive branch is carrying out the policies adopted by the elected representatives in Congress.

This kind of a reassessment of the Con-

gress and the executive branch, I believe, would do much to restore the confidence of the people in our government processes.

Thank you and good luck to each of you as you pursue your commitment to knowledge and reason.

WILLIAM HERONEMUS, UNLIKELY REVOLUTIONARY

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. FISH. Mr. Speaker, this country has had to cope with many obstacles throughout our history. We have been able to overcome problems that seemed impossible at the time. As we approach our 200th birthday as a nation, the United States faces one of its greatest challenges—finding alternative sources of energy so that we can continue our way of life.

Fortunately, there are men today, as there have been in the past, who have the insight to look at the situation of the present and offer solutions for the future. William E. Heronemus is one of these men. A professor of civil engineering at the University of Massachusetts, Mr. Heronemus is a firm believer in the use of wind as a source of energy.

At this time, I would like to insert into the RECORD an article which appeared in the November 1974, issue of Blair and Ketchum's Country Journal. I feel that my colleagues will find this article to be both informative and interesting:

WILLIAM HERONEMUS, UNLIKELY REVOLUTIONARY

(By John Walcott)

The wind blows across central Massachusetts from west to east. From the Great Lakes and across the rolling orchards of upstate New York, up and over the purple Berkshire Hills, across the fertile Connecticut River valley, and out over the Atlantic.

Today, it is blowing at about ten miles per hour, just enough to bend the branches of the young maple trees that dot the sprawling campus of the University of Massachusetts in Amherst.

Professor William E. Heronemus, a retired naval officer who came to the University nine years ago to teach civil engineering, leans back in his chair and contemplates a bedraggled plastic window shade that is flapping spastically in the breeze.

"It's a shame," he says, "All that energy going to waste."

William Heronemus is a windmill expert, perhaps the foremost in the nation. He is convinced that the best short-term solution to New England's energy problems would be a network of 13,695 windmills off the Massachusetts coast, where the wind speed averages a little more than twenty miles per hour.

Such a network, says Heronemus, would cost a shade more than $22 billion, but could spin out 159 billion kilowatt hours of electricity a year—four times the amount the six New England states used in 1973. And, he says, because fuel is free and operating costs are low, wind-generated electricity would cost the consumer about three-fifths of what he now pays for power.

Each windmill in Heronemus' Offshore Wind Power System is a diamond-shaped metal tower rising 340 feet above the sea and carrying three huge propellers, each 200 feet in diameter. (13,695 windmills × 3 propellers each=41,085 propellers off the New England coast.) Most of the windmills would be mounted on floating platforms, similar to modern offshore oil-drilling rigs, but some would be anchored in the shallow waters of Georges Bank, Nantucket Shoals, or New York Shoals, like the Texas Towers of the 1950s.

The windmill towers would be grouped into eighty-three clusters of concentric circles, each three and one half miles in diameter, with every tower in a cluster one quarter mile from its closest neighbors. Each cluster, or unit as Heronemus has labeled them, would contain 165 windmills, and would cost a bit more than $205 million, installed.

The circular units would be arranged, in turn, along three north-south lines to catch the prevailing westerly winds. The innermost line, 164 nautical miles long, would begin some thirty-eight nautical miles north of Race Point, near Provincetown on Cape Cod. At a point about ten miles north of Race Point, out of sight of land, the line of windmills would curve to the southeast along the Cape's outer beaches, still out of sight, then would head due south again about thirty nautical miles east of Nantucket, finally ending at the edge of the Continental Shelf some sixty-five miles southeast of Nantucket.

The second line, ninety-five nautical miles long, with 4,455 windmills in twenty-seven circular clusters, would begin about ninety nautical miles east of Truro, on Cape Cod, and would run due south to the edge of the Continental Shelf. The third line, sixty nautical miles long with 2,805 windmills in seventeen clusters, would be constructed sixty miles east of the second line, or about 150 miles off Cape Cod.

But what good are 13,695 windmills if the wind stops blowing?

Heronemus has an answer: use the electricity from the windmills to break down sea water into hydrogen and oxygen. The oxygen could be released as a harmless byproduct, and the hydrogen could be stored in a deep-water tank farm. Then, when the wind dies down, the hydrogen could be released, pumped to shore, and used to make electricity in a device called a fuel cell which converts the chemical energy in hydrogen gas into electrical energy, rather like a battery.

Would 13,695 windmills interfere with navigation?

"Hogwash!" Heronemus replied in a paper published in 1972 by the Marine Technical Society. "Navigation as practiced by the typical New England fisherman would *profit* from this scheme—they have always wanted street markers and signs to compensate for their inoperative compasses and navigational [in]-competence."

Is it legal to erect 13,695 windmills beyond the territorial limit?

"There will be a group of bleeding hearts who will feel we must consult with such major maritime powers as Malta and Tanzania before we have the right to proceed with something like the Offshore Wind Power System," said Heronemus in his 1972 paper, dismissing the thought that America cannot do whatever she wants with the Continental Shelf—including drilling for oil or building windmills.

But is this grandiose scheme technologically feasible? To a surprising extent, it is. The last decade has seen tremendous strides in ocean engineering, as man turned increasingly to the sea for new sources of oil, food, and raw materials. Aerodynamics and materials research have provided the metals and the know-how to build hurricane-proof windmills.

The Achilles' heel of the Offshore Wind Power System is the hydrogen storage and fuel cell technology. Hydrogen research ended when the German zeppelin *Hindenburg* exploded at Lakehurst, New Jersey, and was not resumed until very recently, when engineers began to realize that the world is running out of natural gas and began searching for a replacement. Major experiments are now underway at United Aircraft in Connecticut and at Brookhaven National Laboratory on Long Island, but large-scale hydrogen storage and fuel cell use will probably have to wait for at least another decade. When it is perfected, hydrogen may emerge as a nearly perfect fuel—recyclable and nonpolluting.

But William Heronemus is not about to wait.

"Offshore Wind Power System has a future not a past," he wrote in 1972. "How much is the United States willing to spend to solve massive pollution problems at their source? How much of a bonus in reduced costs for electricity is the United States willing to accept as a prize for abandoning some of our current plans, some of our investment, and insisting on pollution-free power sources? The Ocean Engineers are ready to lead the way down the road to that goal whenever the public, the government, and the industry are ready to get underway."

A few years ago, quixotic talk like that would have meant a quick trip to academic oblivion. Today, it has made William Heronemus something of a national celebrity, a source of information for countless academicians, and a minor cult hero to the hundreds—perhaps thousands—of Americans who are cutting the ties that bind them to utility companies and are turning to the sun and the wind.

A few years ago, William Heronemus was virtually alone in the windmill business. Today, he may be eclipsed by bigger and more prestigious names—the University of Michigan, the California Institute of Technology, the National Aeronautics and Space Administration, General Electric, the Grumman Aerospace Corporation—that have begun to study windmills.

William Heronemus grew up in Lancaster, Wisconsin, the seat of Grant County, twenty-five miles due north of Dubuque, Iowa, twenty-seven miles southeast of Prairie du Chien, and approximately 875 miles from the ocean. Yet William Heronemus always knew that he wanted to be a naval officer.

"I will never know why," he says now. "But it was absolutely clear. You just get tired of looking at cornfields."

Heronemus got his chance in the spring of 1938, when populist Senator Robert E. La Follette held his annual competitive examination for prospective military officers. The competition was tough in those lean years, and there were 1,200 applicants for one appointment to the Naval Academy.

William Heronemus won.

He left Wisconsin that summer, headed for the sea with a railroad ticket to Annapolis, Maryland and one hundred dollars in spending money his sister had given to him.

While Heronemus was a midshipman, someone in Annapolis had a small sailboat with a propeller mounted on the mast. The propeller was connected to an underwater screw via a shaft, and the little boat could sail directly into the wind. Other sailors around the mouth of the Severn River insisted that the boat had a storage battery hidden on board, but it did not.

Heronemus, who was interested in naval architecture and yacht design, and had devoured most of the standard texts on the subject, was fascinated by the little boat. But the world was moving too fast for idle dreaming, and the little sailboat was soon forgotten. It would be more than thirty years before Heronemus thought of it again.

The young sailor was driving home to Wisconsin after his first trip to sea, aboard the old USS *Texas*, when he heard the news that

Hitler had invaded Poland. Winston Churchill's voice caught up with him on a moonlit night in Ohio.

When the war ended, Heronemus returned from destroyer duty in the Pacific and was sent back to school to study marine engineering and naval architecture at the Massachusetts Institute of Technology.

"MIT was not as pleasant as the Academy had been," he says. "A lot of the work there was very, very difficult, but there was nothing I couldn't handle quite nicely." (William Heronemus' friends say he has never lacked self-confidence.)

At MIT Heronemus first became interested in energy technology. He began to study the principles of gas turbines, which are twentieth-century descendants of windmills. Modern windmills, in fact, are often called wind turbines.

Heronemus showed an aptitude for turbine technology, and the Navy offered to send him to Switzerland to study for a doctorate in fluid dynamics. But Heronemus said no: he had found the calling that would occupy the next fifteen years of his life. Not until twenty years later, after he had retired from the Navy, would he return to the study of turbines, somewhat embarrassed that he had never earned his PhD.

After MIT, the young design officer was stationed at the Portsmouth Navy Yard when, in 1948, Admiral Hyman G. Rickover approached the Yard with a startling proposition. Rickover wanted to build a nuclear-powered submarine.

Heronemus did not think much of the idea at first, but with typical open-mindedness, he began to study the subject. As he did so, the facts persuaded him that Rickover was right.

"I pooh-poohed the idea of nuclear submarines," Heronemus recalls. "But as time went by I began to see that it made damn good sense."

Then a lieutenant commander, Heronemus was put in charge of ordering all the steel for the world's first nuclear submarine, the USS *Nautilus*, which was launched in 1954.

By 1955, Lieutenant Commander Heronemus was managing the largest ship-design shop in America, the Mare Island Navy Yard in California, where the Navy was building the world's first missile-carrying submarines.

His strong convictions occasionally caused trouble, but Admiral Rickover bailed him out.

"Rickover recommended that I be given a medal for telling my superiors to go to hell," Heronemus recalls, grinning.

At Mare Island, Heronemus decided that he wanted to go to work for Rickover, who had emerged as the nation's most forceful advocate of nuclear power, both for ships and for commercial electric power plants.

"I got a message that if I asked Rickover for a job I might very well get one," Heronemus says. "I went back to Washington and walked all the way to his door in the old wooden building behind Main Navy. I got all the way to his secretary's desk. Then, for the first time in my life, I completely clutched up.

"I guess I've never really understood why," he muses. "I guess it just wasn't meant to be."

At the age of forty-five, Captain William E. Heronemus left the Navy. He was, he says, deluged with job offers, and took a position with United Aircraft in Farmington, Connecticut, where engineers were studying the possible use of hydrogen to generate electricity.

Although Heronemus was unaware of it at the time, the pieces of his windmill proposals were beginning to come together. All that was missing was a catalyst, a spark to start him thinking.

On November 1, 1968, Heronemus came to Amherst to start an ocean engineering program at the University of Massachusetts. He had thought that perhaps he would enjoy teaching, and had been recommended for the job by an old Navy man, Dr. Frank Andrews, who was a professor at Catholic University.

Heronemus arrived in the middle of a burgeoning row over Northeast Utilities' plans for nuclear reactors in the Connecticut River valley.

"At one point" Heronemus remembers, "The plans called for completely stopping the river's flow."

The seed was planted.

Heronemus began thinking about energy, and the University began thinking about applying for a National Science Foundation research grant under a new multi-disciplinary program called Research Applied to National Needs (RANN). Dr. Jesse Denton of the University of Pennsylvania, then with the NSF, gave Heronemus and his colleagues some free advice. Energy, said Denton, was the prime problem nobody was working on.

While some faculty members proposed building floating offshore nuclear reactors—an idea Heronemus supported—Heronemus' thoughts had turned toward more unconventional sources of energy. He remembered the wind pumps that had been used to pump water in rural Wisconsin, he remembered the propeller boat at Annapolis, and he began to study the wind research done by German scientists in the 1920s and '30s, after the Treaty of Versailles prohibited German aerodynamic studies of aircraft.

Perhaps only a country boy who had learned to trust nature, to wait for the sun to ripen the corn, and for the wind to bring the spring rains, could turn his back on two hundred years of technological progress and begin a serious study of windpower. City boys cannot tell which way the wind is blowing, and put their trust in coal or oil.

While other men would have agonized as they thought back over all those years in the very bosom of the nuclear power establishment, William Heronemus simply moved on, with a rare sort of open-mindedness about comparing nuclear reactors to windmills.

As he proceeded, studying windmills on the one hand and nuclear power plants on the other, the windmills began to win out. He knew that the economics of nuclear power were beginning to fall apart—the Vermont Yankee plant at Vernon, Vermont wound up costing four times the original estimate for its construction. Then Heronemus began to read about safety and environmental problems: loss-of-coolant accidents, plutonium production, radioactive-waste-disposal problems. He remembered the quality-control costs of naval reactors—thirty per cent of the direct labor costs at Portsmouth were quality control.

The vast disagreements between respected atomic scientists, people like Edward Teller on one side and Arthur Tamplin or John Gofman on the other, troubled him.

"The science isn't that goddamn abstruse—or is it?" he asked. "Engineering isn't like that. By golly, there are just too many unanswered questions," he finally decided.

The politics of energy also troubled Heronemus. Like Senator La Follette, who sent him to Annapolis, he is a populist at heart, and he didn't like the way the big utility companies had decided that nuclear power was just what New England needed.

"I decided," he says, "that there indeed is a conspiracy. The utilities and energy companies are going to get us hooked on nuclear power, then they're going to drive the price up wherever it will go. And who are they? They are the same friendly souls who are selling us coal and petroleum products."

The answer at last became apparent. Man, in order to free himself from dependence on earth's waning natural resources and the monolithic energy companies that peddle them, must return to the solar system's renewable resources. Ultimately, that means some form of solar energy—either rooftop heat-collectors, massive "sun farms" to generate electricity, or devices to harness the differences in air temperatures that create the winds.

"We have got to show ourselves," says William Heronemus, "that we can have solar power now."

It is a typically American expression of confidence: if we will just put our noses to the grindstone, we can do what must be done. At the same time, though, William Heronemus, a product of Grant County, Wisconsin and the United States Naval Academy, is a revolutionary.

He would have us abandon our traditional battle with nature, our traditional quest for more oil, more coal, and more uranium; he would have us forego deeper wells, bigger mines, and more efficient strip-mining machines. Instead, he says, let the sun light your neon signs and let the wind turn on your electric toothbrush.

COMMENCEMENT ADDRESS

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. McHUGH. Mr. Speaker, on June 21, 1975, Thomas P. O'Connell, associate professor of English at the State University Agricultural and Technical College at Delhi, N.Y., delivered a brief but impressive commencement address to the graduating class at Delaware Academy and Central School in Delhi. Professor O'Connell addressed many of the issues which concern this country today, and he had many interesting observations to offer. I would like to share Professor O'Connell's address with my colleagues and insert it in the CONGRESSIONAL RECORD at this point:

COMMENCEMENT ADDRESS, DELAWARE ACADEMY, DELHI, N.Y., JUNE 21, 1975

(By Thomas P. O'Connell)

Ladies and gentlemen of the class of 1975 and Friends, I am happy and honored to be here.

It seems a mandate of the universe is growth—

The human life span is longer.

Knowledge increases at a dizzying rate.

Gross National Products are usually going up.

We have a greater ability than ever before to feed people as well as to kill them.

If profits don't increase, a company (under many systems) folds.

If an economy doesn't expand, it may collapse.

A vital concern today is whether or not our limited physical space and resources can maintain this constantly increasing rate of growth. If the universe and man in particular must grow—how do we resolve the problem? Perhaps we first have to examine this notion of growth—what is it? Growth toward? Growth from? Growth into? Is it necessarily three dimensional? Is future technological expansion desirable?

It at least seems obvious that a distinction might be made between technological advancements which are necessary to a higher quality of life (medical and dietary, e.g.) and those which are merely conveniences or entertaining, unnecessary to live a full life—and then some means developed to follow up on this distinction.

It is difficult perhaps for an individual person to feel important in a world of such rapid change.

A world so complex—with its hierarchy of bureaucratic structures and multi-national conglomerates.

A word so impersonal—with its management by objectives, group think and government by committee.

A world so paradoxical—with ever increasing collective power and technology almost in direct proportion to decreasing personal power and fulfillment.

And yet each of you is important—you are unique. You can make a difference.

Man (man and woman) has an intellect; he makes choices. He has an imagination.

Consider the stars—it might seem awesome even frightening as you glance up at the countless numbers of them in numerous galaxies and yet you are aware of these stars and planets—they are not nor can ever be aware of you.

Man can internalize (in a metaphysical, spiritual sense) his growth, if he chooses. There are no limits to this development. In fact, external expansion, because of physical limitations will eventually collapse without internal support.

Up to this point in history the thrust of development has been quantitative—perhaps now the emphasis must be on a qualitative enrichment. This internal qualitative becoming will enable man to live without many of the unnecessary technological innovations which are becoming increasingly hazardous to life on this earth and at the same time man's internal growth might make him more willing to share those goods already available through technology—again decreasing the need for additional external development.

Ladies and gentlemen of the class of 1975, you are faced with this problem. You have the privilege and the responsibility of choice—you can make a difference. You can make a difference whenever you decide to grow internally and the decision touches someone else.

I call this the one man revolution.

Don't expect immediate or even visible results—but don't despair. The answer does not lie in running off to the mountains with three Herman Hesse novels, a sixpack and two John Denver records to await the end of the world.

The answers are complex and elusive—but begin by saying "yes" daily to the challenges of our aware existence. And then you might try the following:

First—*Know your limitations.* Come to grips with who you are and then accept yourself as being less than perfect. You must be honest—you must try your best and then live with what that is. When we accept ourselves, we have a better chance of tolerating others. Tolerance is significant. To love others certainly is an ideal to be pursued but if we can at least learn to tolerate others we have accomplished much.

Second—*Be imaginative.* Refuse to see reality only the way others tell us it is. Walter Cronkite, Dick Cavett, and other noted public figures don't have a corner on the market.

Look beyond the immediate—beyond what appears to be—to dream about what might be. Challenge the desperate.

Don't accept the old cliches and shibboleths: That man is basically evil; That war is inevitable; That we must always have the starving among us; That we must have nine million unemployed.

Test your creativity in every situation: In your relationship with the earth; with other persons; with your God.

Continually ask yourself—how do I and can I love thee? Let me count the ways.

Third—*Try to be happy.* Not silly, nor phony but genuinely attempt to get the most out of every situation and share that enthusiasm with others. There is an old saying which reflects this well: "I have bread, but you have given me red roses—how happy I am to hold both in my hands."

As you accept yourself and imaginatively try to be happy, you will make a difference for you will be growing inside. And like Tevye, you will be able to salute "To life" for you will have chosen life.

IN MEMORY OF FORMER GUAM SENATOR UNDERWOOD

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1975

Mr. WON PAT. Mr. Speaker, I was greatly saddened to learn recently of the passing of my good friend, Raymond Underwood.

Ray and I were lifelong associates and served together in the Eighth Guam Legislature. In the late 1950's Senator Underwood led an early movement to form a Republican Party on Guam, and made many other contributions to the Guam political scene. Senator Underwood will also be long remembered for his dedicated service to the people of Guam for his work on various civic and charitable organizations.

The almost endless listing of his many contributions only tells part of the story of this great man. However, equally important was the fact that Ray was a good friend and a proud family man. His dedication to the cause of good government was unflinching and the proud tradition of honesty and public service be left behind will long be remembered.

Ray left behind him his beautiful wife, Anna, daughter Rosemarie Silva, and son James, who has followed in his father's footsteps by serving in the present 13th Guam Legislature. I am sorry to know that Ray is no longer with us. His counsel and friendship will be sorely missed by all his many friends on Guam.

At this time I include in the RECORD the October 5, 1975 newspaper account of Senator Underwood's passing.

Thank you.

The article follows:

[From the Sunday News, Oct. 5, 1975]

EX-SENATOR RAYMOND UNDERWOOD DIES

Raymond Underwood, long an active civic leader and a senator in the 8th Guam Legislature, died yesterday morning at Guam Memorial Hospital after a long illness.

He was 59.

Underwood served in the 8th Legislature as a member of the Territorial party, predecessor of the Republican party here. His son, Sen. James Underwood, serves in the 13th Guam Legislature as a Republican. In the late '50s Raymond Underwood helped lead a movement to form a Republican party on Guam, but the group was unsuccessful.

A daughter, Rosemarie Silva, and four grandchildren also survive.

Underwood was the founder and president of Marianas Sales. The retail firm was founded in 1946 and the first store was in unused military quonsets in Tamuning, at the time considered by many to be a rather remote area.

The Tamuning location was successful, however, and later years saw the area build into one of Guam's largest commercial districts.

Heavily damaged by Typhoon Karen, Marianas Sales moved to Agana in 1963. Although it was the capital, Agana had few businesses at the time and, according to his son, Underwood later felt he had helped pioneer another business area.

"It was pretty empty down here for a while," James Underwood said in remembering the store's first years in Agana. "We first thought we'd built too big a store, but later wished it had been bigger."

The son of James H. and Anna Martinez Underwood, Raymond Underwood was born May 30, 1916. He graduated from Guam Evening High School in 1933 and was married in 1939 to the former Anna Torres.

During the Japanese occupation of Guam in World War II Underwood worked as a supervisor in the rice fields. After the war he was active in military activities and worked at the hospital in Apra Heights and as an assistant administrator at the port.

His service to civic and charitable organizations included four terms as president of the Guam Rotary Club. He also was a past president of the Chamber of Commerce and of the Guam Council of the Boy Scouts of America. He was a former chairman of the Guam chapter of the American Red Cross, former chairman of the Territorial Parole Board, a former member of the 3rd Air Division Civilian Advisory Council, chairman of the 1957 Liberation Day festivities and a member of the Elks and the Parent-Teacher Association.

Funeral arrangements are incomplete but services are to be Wednesday at the Agana Cathedral with burial at Pigo Cemetery.

Rosary is being said nightly at the cathedral after the 7 p.m. Mass.

DuPAGE COUNTY EXPLORERS

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. ERLENBORN. Mr. Speaker, a group of high-school-age young men and women in DuPage County, Ill., have recently accomplished a feat usually reserved for highly trained and experienced law-enforcement officials.

Explorer Post 683, sponsored by the Naperville Police Department, assisted the Federal Bureau of Investigation in a search of the DuPage River for more than $500,000 in stolen checks.

A local newspaper described what happened:

The Explorers, armed with rakes and drag lines, waded in thigh-deep water and mud for almost an hour before Explorer Dirk Wolgast pulled up the partially-decayed canvas bag containing the checks.

This feat is significant because it is not unique. In the spring, the Explorers were involved in a search for an elderly woman lost and wandering in a rural part of the county. During the summer, members of the post revived and transported an electric shock victim to the hospital. Last fall, members traced down a local rumor, developed it into hard evidence, which led to the arrest and conviction of a felon responsible for three Wisconsin burglaries.

I applaud the accomplishments of Post 683, as well as the worthwhile projects of the 42 other Explorer posts in DuPage County. Their deeds have benefited all of the residents in the 14th Congressional District.

HUNDREDS OF MILLIONS OF DOLLARS IN SAVINGS POSSIBLE IN MEDICARE KIDNEY DISEASE PROGRAM

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. VANIK. Mr. Speaker, recently I received a response to a letter that I had sent to Dr. Willem J. Kolff concerning the comparative costs of home dialysis and institutional dialysis for patients suffering from end stage renal disease. Dr. Kolff is a former Cleveland resident who is world famous for his work on medical equipment and artificial organs. Dr. Kolff has provided us with a detailed cost breakdown which illustrates that home dialysis is between $5,000 and $10,000 less expensive than institutional dialysis the first year and between $8,000 and $13,000 less expensive each additional year.

The cost figures listed below for home dialysis include those items which are not covered by medicare, but are still a necessary part of the dialysis procedure. Home dialysis, including training for home dialysis, installation of equipment, a starter kit, supplies, and equipment rental, comes to $12,898 the first year, but drops to $10,044 thereafter. Institutional dialysis at a limited care facility, however, would cost $23,400 per year.

At present there are approximately 20,000 patients on dialysis, 30 percent of whom are being treated in their homes. A panel of physicians appearing before the Oversight Subcommittee in July, whose practices ranged from 20 percent on home dialysis to a high of 80 percent, were in agreement that a level of 50 percent of dialysis patients in home dialysis is medically feasible. If such levels were achieved, then according to the cost estimates provided by Dr. Kolff, over a 10 year period the Medicare program would save approximately $522 billion. It is also assumed that the number of patients on dialysis will rise to between 50,000 and 70,000 by 1984. If 50 percent of this larger patient population can be treated at home, the 10-year cost savings will be over a billion dollars.

It has been predicted that medicare's end stage renal disease program will soon be costing the Federal Government close to $1 billion a year; some estimates are closer to $2 billion. Mr. Speaker, there is tremendous potential for cost savings with medicare's kidney disease benefits program through home dialysis. The Oversight Subcommittee is currently engaged in holding a series of hearings to determine the most appropriate way this can be achieved.

Following is Dr. Kolff's analysis of potential cost savings:

COST COMPARISON OF HOME DIALYSIS VS. CENTER (LIMITED CARE) DIALYSIS

FIRST YEAR COSTS

Home Dialysis

Training for home dialysis: Average of 6 weeks x 3 dialysis per week x $190 (Includes routine lab work, dietician and medical coverage)	$3,420.00
Installation of equipment	450.00
Starter kit	170.00
Subtotal	4,040.00
Supplies (including on-call technician and doctor): Kits at $46 each x 3 dialysis per week x 46 weeks	6,348.00
Equipment rental (Including parts and service): RSP, single needle, etc. $239 per month x 10.5 months	2,510.00
Subtotal	8,331.00
Total home costs first year	12,898.00
If paid technician is required: $35 x 3 dialysis per week x 46 weeks	4,830.00
Total home costs first year with technician	17,728.00

Center Dialysis

$150 x 3 dialysis per week x 52 (excluding professional fees)	23,400.00

COST COMPARISON OF HOME DIALYSIS VS. CENTER (LIMITED CARE) DIALYSIS

AFTER FIRST YEAR

Home Dialysis

Equipment rental: $239 per month × 12 months (including parts and service)	$2,868
Supplies: $46 × 3 dialysis per week × 52 weeks (including on call technician and Doctor, Social Worker, Dietician, etc.)	7,176
Total	10,044
If outside paid technician is required: $35 × 3 dialysis per week × 52 weeks	5,460
Total with paid technician	15,504

Center Dialysis

$150 × 3 dialysis per week × 52 weeks (excluding professional fees)	23,400

NOTE.—If equipment is purchased rather than rented, the first year costs are increased by $3,226. After the first year, costs would be reduced by $2,868, but would incur costs of service and parts.

SUPPORT OF BIOMEDICAL RESEARCH

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. CARTER. Mr. Speaker, the following statement describes the action taken by the American Medical Association House of Delegates at its June 1975 annual meeting held in Atlantic City:

SUPPORT OF BIOMEDICAL RESEARCH

(Reference Committee E, page 371)

HOUSE ACTION: ADOPTED

In 1967, the American Medical Association's recognition and support of the national biomedical research effort were expressed when the House of Delegates accepted the *Report of the Commission on Research* and adopted the recommendations contained therein. Of the report's fifteen recommendations dealing with various aspects of biomedical research and education, the first two, and the most important, were as follows:

1. "The American Medical Association should support in general the Federal biomedical research program." This sentence was qualified by the proviso that the Association should assume obligation for a continuing critical discussion and analysis of the program.

2. "The Programs of the National Institutes of Health should be recognized for their contributions to the national biomedical research effort."

In adopting in 1967 the recommendations of its Commission on Research, the American Medical Association took an affirmative view of federally funded research in medicine and biology. The condition of biomedical research in the United States in 1974 is warrant for the Association once again to declare itself on this subject. Only a decade ago biomedical research was one of the nation's most vigorous and splendid scientific endeavors. Now it is seriously faltering, having been victimized by inadequate federal funding, by budgetary imbalances dictated by expediency, by restricted and uncertain programs for training researchers, and by an increasing political presence among administrators or, and advisors to, the National Institutes of Health. To reverse these trends, a mere allocation of more monies to research in general will not suffice. Rather, corrective measures will entail specific and dedicated efforts to shore up each of the several levels of biomedical research. These include research that has as its objective the acquisition of basic knowledge, whether or not it bears any known relation to a disease, clinical investigation that may be either fundamental or applied, and, when conditions are appropriate, targeted research. An adequate pool of manpower to carry out the necessary tasks must also be assured.

Because of its conviction that biomedical research is one of the cornerstones on which good health care rests, the American Medical Association wishes to endorse and promote the following principles:

1. The support of biomedical research is the responsibility of both government and private resources. The federal government, for its part, must sustain, with high priority, major appropriations to all federal agencies that have responsibility for the support of biomedical research, including training for this research. Such support is warranted not only for humanitarian but also for economic reasons. The cost benefits of medical research are dramatically illustrated by the investments made in virus research that led to several effective vaccines against infectious disease. At today's hospital costs, for example, the nation saves $2 billion per year because of the vaccine against poliomyelitis. Equally large savings have resulted from chemotherapy for tuberculosis. Indeed, it has been suggested that one dollar invested in research saves many dollars in subsequent medical care costs.

Inflation and increasingly sophisticated technology have increased medical research costs dramatically. It is inappropriate to compare today's research expenditures with those of an earlier period in absolute dollar amounts. Government appropriations and authorizations for biomedical research and training must take these factors into account; at a minimum, support for research and training should be established and sustained at a level that will bear some consistent relation to the nation's total expenditure for health.

2. The National Institutes of Health must be budgeted so that they can exert effective administrative and scientific leadership in the biomedical research enterprise. It is important that enabling legislation ensure the economic independence of the Institutes. The prerogatives and non-political nature of the NIH director, the Institute's directors and the advisory bodies must also be protected. Strengthening the independence of the Institutes, however, does not preclude changes in the overall NIH structure, or that of the com-

ponent Institutes, which must be flexible and accommodate to new needs.

Funds appropriated and released for the direct support of extra- and intramural research must be adequate and reasonably assured from one budget year to the next.

3. An appropriate balance must be struck between support of project grants and of contracts. Significant, basic discoveries will continue to evolve from independent, investigator-initiated research, the type of imaginative discoveries that ultimately led, for example, to the development of poliomyelitis vaccine and of streptomycin for treating tuberculosis. Thus a majority of the money designated by Congress for research should be awarded by the grant mechanism, ranging from broad institutional to individual project grants.

On the other hand, the contract mechanism is entirely appropriate for a number of objectives, particularly when a discovery is to be exploited and developed. Moreover, studies in the public interest may justifiably be designed and proposed by granting agencies. The contract mechanism should, however, attempt to make use of external peer review to the greatest extent feasible.

4. Federal appropriations to promote research in specifically designated disease categories should be limited and made cautiously. Concentrating research funds in one disease area, such as cancer, may not be beneficial either to the total biomedical research effort or even to cancer research itself.

5. Funds should be specifically appropriated to train personnel in biomedical research. Without adequate numbers of personnel trained in both basic and applied biomedical research, new discoveries for the prevention and care of disease will be unlikely. Indentured service, or financial or other penalties that encumber the use of research training funds by either institutional or individual awardees, are undesirable.

6. Grants should be awarded under the peer review system that has functioned so effectively for over two decades. The study sections composed of peers that evaluate scientific merit and the judgments of councils on relevance and priority have proven to be sound. Until a more effective or more fair system is devised, no shortcuts should be made in the present system under the pretext of economy.

7. The roles of the private sector and of government in supporting biomedical research are complementary. More vigorous and more venturesome investments in biomedical research by industry and foundations is indicated to balance the necessarily routinized and bureaucratic contributions of government. Conversely, government should encourage and facilitate research support by the private sector. Changes in the tax laws that might jeopardize research funds in the private sector should be opposed. In addition, mechanisms should be developed to integrate the programs underwritten by public and private funds to prevent waste and unnecessary duplication of effort. Such integration should, however, be entirely voluntary and not obligatory.

8. Although the AMA supports the principle of committed federal support of biomedical research, the Association will not necessarily endorse all specific legislative and regulatory action that affects biomedical research. The Association will study legislative proposals closely, weigh priorities, examine past and current developments, and will be prepared to offer suggestions for improvement, or even to oppose what appears as unwarranted or disadvantageous.

9. To implement the objectives of section 8, the Board of Trustees will establish mechanisms for continuing study, review and evaluation of all aspects of federal support of biomedical research.

10. The American Medical Association will accept responsibility for informing the public on the relevance of basic and clinical research to the delivery of quality medical care. It is important that the public be familiar with the goals and methods of biomedical science so that the people and their representatives can effect sound scientific policy.

ADDENDUM—SUMMARY OF RECOMMENDATIONS OF THE COMMISSION ON RESEARCH (1967)

1. The American Medical Association should support in general the Federal biomedical research program. However, because in the public mind research tends to become enshrouded in such an aura of divinity as to exclude critical discussion and analysis of all that is advanced in its name, the AMA has an obligation to the public and to the medical profession to question any facet of the Federal biomedical research program which it may believe to be ill-advised or which it believes to be in need of constructive counsel.

2. The programs of the National Institutes of Health should be recognized for their contributions to the national biomedical research effort.

3. The Council on Medical Education of the AMA, in cooperation with other interested organizations, should be asked to make additional and progressive studies on the effects of research grants on teaching in medical schools. It should seek and recommend means for providing enhanced status and rewards for excellence in teaching.

4. The AMA should support responsible action designed to make available to selected schools of good potential, which have not developed adequate research establishments, special "development" funds to initiate or enlarge their research programs. These grants should also foster better geographical distribution of "centers of research excellence" among medical schools and universities.

5. The AMA should urge that the purpose of grants be identified precisely so that the Congress and the nation may know, with reasonable certainty, what is being supported, as a basis for future decision making.

6. To strengthen the review mechanism, membership on NIH study sections should provide for a sufficient rotation to ensure continuous infusion of new blood and to prevent the development of a monolithic, elite, decision-making "establishment." The same principles of rotation should apply to the Advisory Councils of the NIH. While due attention should be given to such factors as geographic distribution, the main consideration in appointing members to the Advisory Councils should be professional attainment and eminence of judgment.

7. A new statutory mechanism of overall review and counsel, in an advisory relationship to the director of the National Institutes of Health, should be established in order to assist in overall program planning and to provide additional checks and balances on program decisions. Membership on this advisory group should consist of men and women of demonstrated professional eminence and judgment. We believe the advisory body should have independent status, under law, to assure that its recommendations and actions will have their intended impact regardless of changes in administrative leadership.

8. Accountability for disbursement of public funds should be maintained, but this accountability should depend primarily on strengthening of administrative capabilities of educational institutions.

9. The AMA should urge and support legislation providing for Federal reimbursement of all allocable institutional costs of research projects authorized and funded by the Federal government.

10. The AMA should urge and support legislative and administrative action designed to shift more decision-making responsibility for biomedical research from NIH to participating research institutions. To this end, increased use of the "institutional grant" and of the "program grant" should be actively supported. Developments relating to, or affecting, the mix of institutional, program and project grants to academic institutions should be carefully and continuously studied and analyzed for future guidance.

11. The AMA, in cooperation with other interested organizations, should conduct workshops and seminars of academic and medical school leaders and of those Federal administrators who grant and administer Federal research funds, to review mutual responsibilities and relationships, to conduct discussions of developing problems, and to develop new techniques for the better use and management of the vast Federal funds now being made available.

12. Because of the rapid changes which are occurring in the organization of medical practice and the financing of health care, research in the delivery of health care is of great importance and should be encouraged, provided it is conducted under proper auspices in accordance with sound research design and methodology.

13. The imbalance between biomedical research and education caused by the heavy, but desirable, Federal support of research should be corrected by supporting measures that will materially increase both private and public funds for the support of the educational programs of the medical schools. First, among these measures, a more liberal income tax treatment should be allowed to the donors of private funds for medical education to create increased incentives for them to contribute to medical education. Second, there should be allotted a greatly increased amount for operational expenses of medical schools, to be matched by those schools through private or local governmental sources. Every effort should be made to keep the Federal contribution on a supplemental basis and the AMA should not support legislation that fails to do so.

14. The basic principles presented by the pharmaceutical industry on June 1, 1965, before the Subcommittee on Patents of the Senate Judiciary Committee should be endorsed, namely:

a. Provision should be made, in substantially every case, for the grant or license of exclusive rights in a scientific medical discovery to some industrial concern to assure that drug inventions, even if resulting in some part from government-financed research, are really developed and made commercially available to the people.

b. When government funds have solely or primarily developed the invention, it is equitable and rational for the government to hold the proprietary rights to the invention and to receive reasonable royalties from a licensee, or from licensees, who will manufacture and commercially market the invention.

c. Where government funds did not solely or primarily produce discovery and development of the invention, the cooperating contractor-developer alone should have the proprietary rights in the invention.

15. The Board of Trustees should provide for a continuing watch and review of developments in the areas studied by its Commission on Research.

THE REPUBLIC OF CHINA CELEBRATES ITS NATIONAL DAY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. RANGEL. Mr. Speaker, on the eve of the 64th anniversary of the founding

of the Republic of China, I take this opportunity to salute our old and valued ally, and the Chinese people. On this national day we commemorate and remember the revolutionary movement led Dr. Sun Yat-sen which culminated in the overthrow of the Ch'ing—Manchu—dynasty in 1911 and the founding of modern, democratic China.

It is relevant for us to remember with our friends the inspirational leadership of Sun Yat-Sen on this national day for this great Chinese leader typified the restlessness with the status quo that is the beginning of any movement for social change. The movement he began led, under the brilliant leadership of his disciple, Chiang Kai-shek, to be transformation of China from a backward, feudal society based upon traditional privilege to a democracy based upon individual talent and achievement. As we remember the spiritual and moral power of this great leader who died 50 years ago. We look toward the day when the Chinese people are reunited as a nation in the spirit of Sun Yat-sen.

STATES RETREAT FROM SAFETY AND HEALTH EFFORT

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. STEIGER of Wisconsin. Mr. Speaker, last spring the Wisconsin State Legislature decided to cease funding the State occupational safety and health program after almost 65 years of operation. This was an unfortunate decision for two reasons. First, Wisconsin had developed an innovative, active safety and health program. The abandonment of this program has removed the State from participation in a vital function.

Second, we are not confronted with Federal preemption, but rather abandonment of this activity to the Federal Government.

In that light, I commend to my colleagues an article which appeared in the September 21, 1975, New York Times. It has an important message to convey and I hope you will take a minute to review it.

The article follows:

STATES SLASH INSPECTIONS ON JOB SAFETY

(By Ernest Dickinson)

On the night of Aug. 29, water cascaded into a 600-foot-long sewer tunnel being completed at Niagara Falls, N.Y., filling it and drowning five construction workers. The next morning three compliance officers of the Federal Occupational Safety and Health Agency arrived at the scene to conduct an investigation. It is still going on.

A state labor department inspector had checked that tunnel every eight or nine days until July 1, when inspections stopped. The halt followed a decision by Governor Carey months before to take the state out of job safety, a field it had been active in for 85 years.

The move reflected a decision, as an economy measure, to let the Federal Government do it all after June 30. But the Federal agency does not make—and does not have the manpower to make—the repetitive inspections conducted previously by the state labor department.

It is possible, perhaps even probable, that a checkup might not have anticipated the flooding that took place. Nevertheless, the fact that this precaution had been discontinued illustrates a question of nationwide concern:

Is it good or bad that an increasing number of states choose to let Uncle Sam carry the responsibility of policing job safety?

The switchovers are taking place despite the fact that the Federal Government, by paying half their costs, has been trying to induce the states to develop and run effective programs of their own—and one result has been an even greater dearth of manpower to administer job safety regulations.

The question of who is to do what to assure working people a safe environment has taken on an added urgency with the linking of cancer to on-the-job exposure to such substances as vinyl chloride, asbestos, uranium and plutonium.

The Public Health Service estimates that toxic industrial chemicals, dust, radiation, heat and cold kill 100,000 persons a year and are responsible for the development of occupational diseases in 390,000 more.

In Hopewell, Va., for example, 12 employes of a pesticide company were hospitalized recently with poisoning from Kepone, a lethal substance manufactured to kill fire ants and roaches. Some of the workers suffered liver damage; others, loss of memory, slurred speech, twitching eyes and trembling hands. It is unknown whether the damage proved permanent.

A reason why Congress in 1970 gave the occupational safety agency concurrent authority with the states, and put Federal officers with standards and muscle to work in both areas, was because in many places virtually nothing was being accomplished. A few states had only paper programs and no personnel.

But Congress also required OSHA to encourage states to develop and run their own job safety programs. These would have to be "at least as effective" as the stiff new Federal procedures.

Presumably, OSHA would approve detailed state plans then work in tandem with local authorities until each program's effectiveness was assured and finally, after enabling legislation had been passed, the agency would back off into a permanent monitoring role.

But, with the coming of hard times, even the 50 per cent Federal funding didn't seem as attractive to some states as letting the "Feds" do it all.

Under the law, 56 "jurisdictions" are eligible to have their own occupational safety programs—the 50 states, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, American Samoa and the trust territories of the Pacific.

At present 22 of the 56 have federally approved plans. Seventeen more have indicated the hope of developing them, but 17 others are unequivocally out. Six never showed interest; Pennsylvania, Georgia, New Hampshire, Mississippi and Maine withdrew after submitting plans; and North Dakota, Montana, New Jersey, New York, Illinois and Wisconsin recently dropped out even though their plans had already been approved.

Some of these states, of course, keep a certain minimal safety responsibility where OSHA has no jurisdiction—such as in boiler and elevator inspection. But several don't even do that.

Obviously OSHA's mission now is a formidable one. American industry is not spending exactly lavishly on health and safety. According to a survey by the McGraw-Hill Publications Company, $3.12-billion has been allocated for these purposes in 1975, representing a decline of about 10 per cent from 1974's outlay, after adjustment for inflation.

And OSHA is under attack from two directions. On the right, conservatives characterize the agency as an "inflexible bully" that is harassing business and impeding recovery. On the left, labor unions say the agency is underfinanced, (it will probably get less than $115-million for the current fiscal year), and too soft on employers.

Since 1971, more than 100 different attempts have been made by both sides either to weaken or strengthen the law.

A focal point of conservative criticism is a procedure called "the first instance sanction." This means that if an OSHA person visits a plant for any reason whatsoever and finds a violation of standards, he is obliged under the law to cite the employer for a penalty if one is called for. This applies even if the condition is remedied on the spot.

Critics say that the small businessman, especially, should be given another chance, and the benefit of a warning first. Defenders of the present practice, on the other hand, maintain that human nature being what it is, some employers would always wait for an inspection before correcting conditions they knew, or should have known, were dangerous.

Because of OSHA's relatively small manpower, the threat of a no-knock inspection and mandatory penalty, it is claimed, does more than anything else to induce voluntary compliance. Many believe a healthy respect for the agency's clout is necessary to keep it functioning.

By contrast, in state programs inspections have been followed by warnings and then reinspections, long court procedures and small fines. Meanwhile, dangerous conditions have gone uncorrected for months.

Currently, across the nation about three out of every four OSHA inspections turns up one or more violations.

"That fact doesn't give us any great satisfaction," says Alfred Barden, the chief Federal administrative officer for the New York-New Jersey region, where the averages are the same as nationally. "We'd like to turn those figures around. Our goal is to get employers to comply of their own accord."

This is true because it is, of course, impossible for OSHA to really police the nation's 5 million workplaces. It has been estimated that it would take the present 1,193 compliance officers more than a century to visit each establishment just once.

For that reason the agency has adopted a "worst first" policy. Places where accidental deaths or catastrophes with five or more injuries get top priority businesses where employes complain of hazards rank second.

Random OSHA inspections are made most often in industries with high injury rates—such as longshoring, meat-handling, roofing and construction. Other targets are those places where exposure is likely to such known health hazards as asbestos, carbon monoxide, cotton dust, lead and silica.

The American Federation of Labor and Congress of Industrial Organizations has been lobbying to have the Federal unit preempt safety policing everywhere, believing state programs too subject to manipulation by big business.

Some Congressmen who voted for OSHA apparently assumed that most, if not all, of the states would prefer to accept the responsibility for job safety within their borders.

But in both New York and New Jersey, more than three years of work and thousands of dollars went into such tasks as developing standards, deciding who would hear grievances and setting up administrative procedures. The states were well on the way to meeting the "at least as effective" criterion when they jettisoned their safety programs. For New York, Governor Carey estimates the savings from discontinuation at $3.6-million a year.

Those who were administering the New York program, however, believe it would have been a better one than that of their watchdog agency.

"Our philosophy was to provide services," says one former state staff member. "For example, we would examine plans for industrial ventilation and say, 'Look, if you put in this system, it isn't going to remove the fumes properly.' OSHA doesn't do that."

Before New York let the "Feds" preempt its program, it had 450 people in the field. OSHA now has 171. To replace 200 in New Jersey, OSHA added 52. In Illinois about 90 people are taking the place of 230.

One official put it this way: "A state program that is 'at least as effective' as the Federal one with three times the manpower has got to be a better one."

But when a state decides not to conduct its own OSHA-approved program, the biggest gap of all occurs in the safeguarding of state, county and municipal workers. These number about 2 million in the United States. In terms of safety protection they are now second-class citizens.

The Federal agency is not empowered to cover them, although states with approved programs are. They must, in fact, provide a work environment as safe as that for the private sector.

Illinois, for example, had public employee under its umbrella until it dropped its program. A later attempt to get the legislature there to allot $400,000 for a four-year plan to safeguard public workers failed.

New York has at least instructed its labor department to look into the need and report what should be done.

One of the most often heard criticisms of OSHA is based on the fact that none of its staff members can go into a workplace and advise an employer how to conform with the law without citing him for any violation found. The agency can promise only that if a person comes to its office for advice, no inspection will result from that call, and despite such assurances, some employers are wary.

To fill this need for on-site help, state labor departments can operate their own consultation service, sending men into plants to tell employers how they can conform with Federal standards. The Federal government wil pick up half the cost. These consultants are by law completely divorced from OSHA.

Sixteen states have set up such an advisory system. New York, with a 50-person staff, has by far the largest such program. It receives about a quarter of the total Federal grant of $5-million for this purpose.

Aside from the availability of advice, any small company likely to suffer economic hardship in complying with OSHA standards can get a Small Business Administration loan to make required improvements.

The question of which is better suited to become the guardian of occupational safety—the states or the Federal government—may be debated for years. The OSHA law as it stands allows the return of any state that changes its mind on setting up a local program. But the likelihood of such action in the near future is considered dim indeed.

TRIBUTE TO RABBI DOLGIN

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. WAXMAN. Mr. Speaker, as the great philosopher-physician Maimonides eloquently professed in his physician's credo, the art of healing is shared by God and man. Therefore, it is most fitting that when the great new Shaare Zedek Medical Center is built in Jerusalem, that part of that center would include a synagogue, and when it came to honor an individual in connection with that synagogue, that the name of Rabbi Simon A. Dolgin would be so honored.

Rabbi Dolgin is a sensitive man of rare qualities. He personifies the ideal of rabbi in the fullest sense of the word. He is a teacher, a man of action to help the less fortunate, a man of compassion, a man of good deeds, a man to whom justice is more than a work. To him justice is a responsibility—justice for all people.

Rabbi Dolgin is celebrating his 60th year and 33 of those he spent as the spiritual leader of Beth Jacob Congregation, now established in Beverly Hills. The rabbi left his pulpit to retire in Israel, and become the Director General of the Ministry of Religious Affairs of the State of Israel, serving in that capacity for almost 3 years. Since March 1974, he has been special adviser to the Minister of Religious Affairs.

At the same time, he continues to be a rabbi. He serves the Ramat Eshkol community in Jerusalem, the first American-born rabbi to serve on any pulpit in Jerusalem.

Withall, he has maintained a constant interest in Shaare Zedek Hospital, a 102-year-old health care facility serving Arabs, Christians, and Jews regardless of race, religion or ability to pay. Shaare Zedek was the first hospital built outside of the walls of the old city.

This hospital caught the imagination of communities around the world which have provided voluntary contributions for its support throughout the years. The Israelis themselves gave it vigorous support within the limit of their means because of the tender human approach the staff held in the practice of medicine. It is the patients who called Shaare Zedek "The Hospital With a Heart" for their doctors treated patients as individuals, rather than treating diseases.

In the United States, the Western regional headquarters of this hospital is headed by Hershey Gold, general chairman; Sidney L. Klein, chairman of the board; and Peter Grant, executive director. They have now instituted the Jerusalem Award dinner which will be held October 26 at the Beverly Hilton Hotel. Mrs. Matthew Berman and Mrs. J. Louis Freibrun have been named dinner chairmen. At the dinner Rabbi Dolgin will be presented the Jerusalem Award for his unique contribution to Judaism and to society throughout his years of selfless service.

A special Jerusalem Award Committee has been established. It is headed by David Shapell and Jack J. Bayer, two civic-minded business leaders who not only will make the presentation of the coveted award, but have undertaken the responsibility of continuing fundraising efforts even after the dinner to insure fulfillment of the goal needed to build the synagogue at the hospital.

Messrs. Shapell and Bayer are to be commended for their dedication to a great rabbi who has given them and their community a new dimension to their spiritual activities. They have developed the Jerusalem Award Committee with a broad cross section of Jewish leadership in the Los Angeles community to honor Rabbi Dolgin.

It is a mark of special note that a rabbinic committee has been established under the leadership of Rabbi Maurice Lamm who succeeded Rabbi Dolgin to the pulpit. It is a measure of the esteem by which Rabbi Dolgin is held among his colleagues, that within days after the formation of the committee, 41 rabbis sought to join the committee to honor him.

Rabbi Dolgin was the valedictorian of the first graduating class of People's Junior College in 1931 and was ordained in 1939, after completing studies at the Hebrew Theological College. He earned a bachelor's degree at the Illinois Institute of Technology—Lewis Institute. He completed courses for doctorates at three graduate schools—University of Southern California, Hebrew Theological College, and Yeshiva University, and was awarded a doctorate at Hebrew Theological College of Jewish University of America in 1959. He was the rabbi of Beth Jacob Congregation from 1939 until his retirement in 1972.

Author, lecturer, teacher, he was the founder of Hillel Hebrew Academy in Beverly Hills which has become the largest intensive day school west of Chicago. He was a member of the Board of Directors of the Los Angeles Jewish Community Council and served as a member of the Jewish Welfare Board. He was also on the boards of the Big Sister League, Jewish Publication Society, Southern California Jewish Historical Society, and the Family-Adult Service Committee of the Community Chest. He served as national vice president and member of the executive board of the largest American rabbinic body, the Rabbinical Council of America. His list of credits goes on and on. In a word, Rabbi Dolgin is a man known more for his deeds than his promises.

Permit me to congratulate Rabbi Dolgin on his tremendous achievements which will be recognized on October 26, when Shaare Zedak Hospital presents its Jerusalem award to him. I also want to extend warm congratulations to this outstanding hospital in Jerusalem and its dedicated leadership in California for making this occasion possible.

ALTOONA MIRROR PINPOINTS JOURNALISM'S NEED

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. SHUSTER. Mr. Speaker, the Altoona Mirror, a responsible and respected Pennsylvania newspaper, carried an editorial on October 7, which

merits the attention of all thinking Americans.

The editorial follows:

JOURNALISM'S NEED—INTEGRITY

It is regrettable that journalism has allowed itself to be caught up in one of the great fad movements of the day, "social responsibility."

By this we do not mean at all to disparge social responsibility in its true sense, concern for fellow human beings.

Our criticism is of today's loose use of the words, which have become a mere slogan, demanding instant approval despite application or meaning.

It is used indiscriminately today by well-intentioned students, teachers, clergymen and editorial columnists, and also by such warped individuals as the members of the "Manson family," including Lynette Fromme and Sandra Good, and the "Symbionese Liberation Army," infamous in its Patty Hearst publicity.

One of the first problems journalism encounters on this issue is the slogan's controversial nature. For example, the moment one questions it, he is confronted by some libertarian who says, "Oh, so you're against people!"

Which, of course, simply does not follow. Today's vogue of social responsibility is contradictory, self-righteous and completely inconsistent.

The idea advanced in some journalism quarters today that the press must become more "socially responsible," and that it needs a supervisory agency to do so, inevitably would lead journalism, of whatever variety, straight toward loss of freedom of the press and objectivity.

The consequences would be disastrous. Journalism would cease in fact to be journalism, and would become instead a hybrid creature whose major purpose would become propaganda for causes, and opinion which would color its every word.

That the news media has come into increasing public censure and doubt is due almost solely to its adventure into partisan political ideology and its own conception of "social responsibility."

Since loss of personal integrity seems to have become a national affliction, it would not be just to center the criticism of the press on this issue. Yet, because it has become a national problem, as many believe, it also has affected the press, which has tended to pursue a course of no-holds-barred in the contest for public interest, a contest between the leading elements of the press, news service and metropolitan dailies, but equally with the great showmen of television newscasts.

There seems to be a movement to work completely out of freedom of the press, even while the press paradoxically, is talking so strongly defensively about it.

The nature of a responsible press, it seems to us, is just about what it was when it emerged in the early days of this century, following the development of the Associated Press, United Press and International News Service, and later United Press International, and the heyday of the great metropolitan dailies.

A code of ethics was adopted by the American Society of Newspaper Editors years ago, and editors exercised a responsibility—"social responsibility" if you prefer—that was a credit to the profession and to freedom. Editors, without coercion or any supervisory agency, delayed news of kidnapings and of international incidents during the war years that served the nation and humanity well.

In the last few years there has been a deplorable tendency among journalism's leading lights to set their own standards, depending upon the urgency of the moment.

All journalism needs, we believe, is a trend back to integrity and responsibility and a profession-wide awareness that the main function of journalism and the news media is—news responsibility.

"I see journalism slowly marching into the sunset of authoritarianism under the banners of social responsibility," said Dr. John Merrill of the University of Missouri.

A BILL TO REGULATE COMMERCE

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. MOSS. Mr. Speaker, I introduce for myself, Mr. DINGELL and Mr. VAN DEERLIN for appropriate reference, a bill to regulate commerce by establishing uniform test protocols for consumer products and for other purposes.

Mr. Speaker, it is axiomatic that an efficient free enterprise economy depends on the informed decisions of consumers. A knowledgeable consumer confronted with a choice between products of equal quality but unequal price will choose the less expensive product. Such discriminating judgments insure the lowest possible prices while rewarding efficient producers of goods. This is the key to our competitive system.

But information on the comparative merits of the thousands of products among which consumers may choose is scarce. In today's marketplace, being an "informed consumer" is difficult; it is becoming more so. As one economist has said:

> The increasing complexity of consumers goods is constantly increasing (the Consumer's) ignorance.

Mr. Speaker, the twin phenomena of a proliferating number of products and products of ever-increasing technical sophistication has substantially weakened the independent ability of consumers to make the choices upon which the efficiency of our economy depends. Despite the clear need for information to allow consumers to effectively choose among competing products, our society has left consumers in the same position they were in during the era of "caveat-emptor"—let the buyer beware.

In some ways, the law has acted to protect consumers from their inability to gage the quality and performance of products. Since careful observation and rough performance tests will no longer protect consumers from dangerous products, the law of tort has developed doctrines such as strict liability to insure that an injured consumer will have effective redress. We in the Congress in addressing this same problem created the Consumer Product Safety Commission.

But these reforms speak to safety, not the equally fundamental interest of a society which relies on competitive free markets to protect the effectiveness of those markets. For this critical societal interest, caveat emptor must be replaced with a program which will provide consumers with complete and comparable data on durability, performance, and cost of operation.

Today, consumers are forced to rely on substitutes for essential information on quality and performance. The most important of these substitutes is advertising. Though advertising is an important vehicle for informing consumers of the choices available to them, it is often merely a vehicle for associating a particular product with youthfulness, vigor, or fun. In this latter role, the purpose of advertising is to establish in the public mind familiarity with particular trademarks.

Though "brand-name" products are often of the highest quality, consumer reliance on heavily advertised trademarks as an indicia of quality has a dramatic effect on competition. First, since the usual purpose of advertising is to establish familiarity with a brand name, quality or price comparisons are rarely made. Advertising may blur the comparative merits of competing products. Second, reliance on known trademarks favors a marketer who advertises and establishes his trademark as a household term. But the skills and financial infrastructure needed to effectively advertise have little or no relationship with the skills or capital required to produce a quality product. In fact, it appears that economies of scale in production are reached far sooner than they are in advertising. In an economy which relies on advertising as a principal source of information on quality, large companies are favored over small—a discrimination which I must emphasize has little or nothing to do with product quality.

The use of advertising as an indicia of quality imposes on potential competitors substantial barriers to entry into such lines of business. A company considering entry into a particular line of business must both produce a quality product and overcome consumers' tendency to rely on familiar brand names—a phenomena which is directly related to consumers' inability to judge the comparative merits of competing products.

Given consumers' reliance on advertising and trademarks as indicators of quality and the large economies of scale in advertising, it is no surprise that in every important consumer market three or four heavily advertised products dominate the market. According to the 1967 Census Bureau survey of manufacturers, the four largest manufacturers of laundry equipment accounted for 78 percent of the market. The same survey indicated that the four largest manufacturers of sewing machines claim 81 percent; of electric lamps—91 percent; of household vacuum cleaners—76 percent; and of household refrigerators and freezers—73 percent.

According to economists, concentration in consumer product markets costs us all a great deal. F. M. Scherer in his book "Industrial Market Structure and Economic Performance" estimated the costs of oligopoly market structures and other competitive breakdowns at $87 billion per year. To these costs must be added the impossible to estimate costs of slowed innovation, often associated with weakened competition as competitors realize it is in their joint interest to protect investments in existing technology

I believe that industry as well as consumers will benefit from a program which will put into the hands of consumers concise and comparable data on

durability, performance, and operating costs. A recent Federal Trade Commission rulemaking revealed the frustration of many manufacturers with the use by competitors of varying formulas for rating the power of high fidelity amplifiers. The choice of a single formula by the FTC insures that competitors compete on the same basis. Similarly, the capacity of refrigerators is computed in various ways. The result is that two refrigerators may be quite dissimilar in capacity but be designated as the same size. This serves no one.

The legislation which Mr. DINGELL, Mr. VAN DEERLIN and I introduce today goes to the core of the problems of which I have spoken—a lack of information in the hands of consumers. Under the provisions of this bill, the Federal Trade Commission, employing the expertise of the National Bureau of Standards, would develop and promulgate product testing protocols. These protocols would measure the objective performance characteristics of products. This information would then be provided to consumers in a concise and comparable form at the point of sale, prior to sale.

I submit that this program would greatly strengthen our competitive system. Further, it does so by strengthening the ability of consumers to make informed decisions on what they believe is best for them.

FISCAL POLICY

HON. ALLAN T. HOWE

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. HOWE. Mr. Speaker, it is difficult to trust the judgment of a man who, just a year ago was calling for tax increase to cure a recession and now has called for a substantial tax cut. His previous move was stopped by a conscientious Congress, and he then conceived a tax cut for wealthy people which the Congress changed to benefit the middle- and low-income citizens as well.

Recently, President Ford announced a massive program of tax and spending cuts of nearly $28 billion. His support of tax reduction measures is contingent on congressional promises to set a ceiling of $395 billion on Federal spending in fiscal 1977.

This most recent move by President Ford to reduce taxes provides another example, where none is needed, of a one-sided style of government by veto at which he has become so adept. By trying to tie Congress to a rigid and unrealistic spending ceiling seems almost an effort to usurp the legislative branch's ultimate weapon in a system whose "checks and balances" grow dimmer with increasing encroachments of executive authority. One cannot help but note the political implications this action brings forth and more importantly, the question of how wise this administration really is on crucial matters facing this country.

So far, Mr. Ford has labeled Congress as spend-thrifts by vetoing 39 bills under the guise of their "inflationary" nature. I do not like this "solo" brand of legislation which could be called "take my idea, or I'll veto yours," which runs contrary to the whole spirit of cooperation between the various branches of Government.

This latest proposal by the President is unrealistic particularly from the standpoint of the arbitrary choice of figures and certain never to be enacted without drastic changes in the recently adopted budgetary process. My major criticisms of Mr. Ford's latest proposal follow:

First. I object to the obvious political nature of these large tax reduction proposals because the benefits—increased money supply for the American people—will be realized before the November election and the cuts he asks for will naturally follow.

Second. The "condition" he imposes on Congress to reduce spending by a comparable amount would cancel out any beneficial effects the cuts would have in stimulating the economy.

Third. It is unrealistic and impractical to place restraints on the fiscal 1977 budget, at this time, with unforeseen needs and uncertain economic conditions. In fact, James T. Lynn, Director of the Office of Management and Budget, estimated that with just automatic growth in existing programs gaged at $33 billion, the fiscal 1977 budget outlays would be approximately $423 billion. The President's proposal demands a commitment to a ceiling of $395 billion and while I want to cut the budget, this appears impossible in light of the figures. Thus, a $28 billion reduction to hold 1977 spending down would necessitate cutbacks in existing programs and place a greater burden on the public as well as suppress new initiatives.

Fourth. The move also represents "bad judgment and faith" on the part of the President when recalling budget agreements and the timetable set by Congress and President Ford earlier this year to establish spending ceilings prior to adopting appropriation measures for the upcoming fiscal year.

Fifth. Further, I object to the arbitrary nature of the proposal. When the House Ways and Means Committee has been working incessantly on tax reform legislation they were not consulted or informed by the President of his proposals. A possible reaction to this plan would be to undermine the tireless efforts of this committee in concentrating on reforming the President's ideas and ignoring the comprehensive legislation they have compiled. Is this working together?

Sixth. The proposal represents poor planning in its vague directive to "cut spending" without specifying targets. Typically, the President has been reluctant to endorse defense cuts and urges cutbacks in important "people programs" such as child nutrition, food stamps, aging and housing.

It is important to approach complicated economic questions with balanced programs working on the simultaneous fronts of taxation, unemployment and long-range economic recovery. The Congress is geared to such an effort as proven by the impressive tax reform package soon to be reported out of the House Ways and Means Committee. A reasonable approach is taken in areas involving tax cuts to stimulate employment and the economy; closing of tax loopholes to raise revenues; and elimination of costly "tax shelters" to strike an equitable balance between large and small taxpayers.

This legislation is the product of countless hours of hearings, where testimony and recommendations of experts from all reaches of the political spectrum was received. This is not a product of a single man's idea. It is a balanced, reasonable approach to a critical issue. We agree that something must be done and the Congress is now up the "how" stage. Let us not be distracted by the schemes of persons proposing a fiscal policy geared toward an election advantage.

U.S. CIVILIAN TECHNICIANS IN THE SINAI

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. FISHER. Mr. Speaker, in approving the bill, House Joint Resolution 683, to station up to 200 U.S. civilian technicians in the Sinai to monitor military activities in that troubled part of the world, the House has made a difficult decision. This decision, in my judgment, is better than the alternative of turning our backs on the request of both Israel and Egypt that the United States participate in the peacekeeping. The House action was given further urgency by the real prospect that without it the whole arrangement for defusing the potential explosion in the Mideast might collapse. There can be no certainties in this matter, but the U.S. commitment of the technicians seems justified in terms of the large gains toward peace that would be made possible and in terms of the very severe consequences that otherwise might ensue.

After seeking advice from knowledgeable persons in the 10th District of northern Virginia and others, and after considerable soul searching, I voted for the bill. Fortunately provisions of the bill guard against some major dangers: The technicians are to be withdrawn from their exposed posts at the first sign of outbreak of military engagement; technicians from other countries and the United Nations will also take part in the monitoring operations; as soon as possible the technicians, none of whom will be military personnel, will be removed; and the President is to report to the Congress and the American people every 6 months on how the operation is going.

Though containing some risks of escalation, I do not regard this proposal for a small number—200—of civilian technicians as analagous to the 15,000 military and U.S. paramilitary personnel

sent to South Vietnam in the mid-1960's. At that time the number was much larger, their presence was requested by only one of the antagonists—South Vietnam—active war was going on, and the general awareness in this country of the implications of later heavy involvement on our part was not present as it is today.

The part of the Israel-Egypt negotiation in which our Secretary of State has played a leading role that gives me the most hesitation and trouble is not so much the few civilian technicians, but the very large and continuing level of military assistance, either by grant or by sale, to both Israel and Egypt as well as to other countries in the Mideast. I insist that at least the general nature, major elements, and cost of all such commitments and semicommitments be made known to the Congress and the American people so policy decisions can be arrived at that reflect our best thinking and be truly in the national interest. I am not here calling for all details or for that small amount of information that should be confined to the International Relations and Armed Services Committees on security grounds. But I do advocate exposing to full public view everything else. Unless this is done it will be difficult to restore confidence of Americans in their Government and its policies. The implications of rapidly growing shipments of American military equipment to the volatile Mideast and to other parts of the world are grave indeed. Not only does this help to create conditions for devastating war, but also has an insidious effect on this country. Our Mideast ties will come to depend on large arms sales abroad and our people may come to accept this as a normal, expected part of American foreign policy.

SARASIN EMPHASIZES IMPORTANCE OF INLAND ROUTE

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. SARASIN. Mr. Speaker, as an ardent supporter of increased and efficient railroad passenger service as an integral part of a balanced transportation system, I am somewhat confused and disappointed by the failure of the National Railway Passenger Corporation—Amtrak—to recognize the value and profitability of rail service from New York to Boston via the inland route rather than the shoreline route.

In their quest for speed at the expense of service, they are ignoring the transportation needs of central Connecticut and Massachusetts. Amtrak is, thus, ignoring the presence of the population clusters at Meriden-Wallingford, Hartford, Springfield, and Worcester so that they can shorten the total travel time between New York and Boston by approximately one-half hour.

While I certainly can concur with Amtrak's desire for faster service, I do not feel that they should do it at the expense of increased potential ridership.

I would like to include at this time an editorial which appeared in the New Britain Herald on October 1, 1975, which I feel concisely reflects my views on this subject, for my colleagues attention:

REDEEM INLAND

Why not run the trains where the people are?

You'd think that common sense logic would have appealed to Amtrak when it was deciding where America's passenger train routes should be located.

The inland route should have been designated the prime Boston to New York, via New Haven rail route, for example not the shoreline route. It serves a potential market of at least 1.1 million persons more than the shoreline route through Providence and New London.

Instead, however, Amtrak continues to prefer the shoreline route for a number of reasons, most of which could and should be modified.

But the Inland route wasn't really ready when Amtrak was. The corporation seems to emphasize Speed over Service, commendable in other contexts but not here. Rhode Island has a lot of political clout on Capitol Hill. And then, track repairs were and are badly needed in Massachusetts and the Bay State balked at paying Amtrak the needed subsidies for operating losses. So Inland passenger service from Boston to Springfield was dropped knocking out a key segment of the inland route.

Now in lieu of subsidies, Massachusetts proposed to upgrade its inland railroad tracks, thereby allowing restoration of the Boston-Springfield passenger service. Rail advocates in this state suggest that to dovetail with the Massachusetts proposal, Connecticut undertake a similar repair and upgrading program between Enfield and Hartford, to make the whole Connecticut linkage from New Haven to Springfield a high-speed, first-rate segment of track.

We would urge the Connecticut Department of Transportation to take this repair proposal under serious advisement. Regular high-speed passenger trains along this New Haven to Boston run would generate considerable traffic, help ease New England's gas crunch, and prove a long range boon to the state's economy. Money spent on such repairs would be one of the best possible investments this state could make.

EARLY WARNING SYSTEM IN SINAI

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. HAGEDORN. Mr. Speaker, I would like to speak in favor of House Joint Resolution 683, authorizing the President to implement an early warning system in the Sinai designed to maintain peace between the Israelis and Egyptians. The system is to be composed of 200 volunteer, civilian technicians manning the border between these nations. Although, like other Members, I fully appreciate the risks involved in this agreement, I believe that the potential benefits are enormous, while every effort has been made to minimize the extent of the risks. Not only are such technicians to be evacuated immediately in the event of the outbreak of hostilities between the Israelis and Egyptians, but the Congress is authorized to determine at any point through a concurrent resolution that the safety of our troops is endangered, or that the continuation of their role is no longer necessary, in which case the technicians are to be removed. Periodic reports to Congress required to be filed by the President should assist us in fulfilling these responsibilities.

Approval of this resolution neither implies full acceptance of any other aspect of Secretary of State Kissinger's Sinai agreement, nor does it imply that we recognize no further need for progress in Middle East negotiations. Undoubtedly, lengthy periods of negotiation between the Israelis and other Arab nations lie in the future. By assisting in the success of the Sinai agreement, we can do much to insure the success of these future negotiations. Without minimizing the variety of complications that could potentially result from our participation in the agreement, I believe that the safeguards contained in this resolution, and the example that we will be setting for future good faith bargaining in this troubled part of the world are strong reasons for supporting the early-warning system. There are many who legitimately question why it is the United States which always seems to be involving itself in peacekeeping efforts abroad. We are there by the mutual consent of Israel and Egypt; it is not always easy being the most trusted nation in the world, but needs of world peace and world freedom require that we fulfill this important role.

THE PROS AND CONS OF PUBLIC POWER

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. HARRINGTON. Mr. Speaker, the issue of public power, and the extent of a State's involvement in the operation and/or ownership of electrical utilities is finally becoming more than a dormant issue. Many now realize that in many instances it is possible for a unit of government to finance, construct, and operate the electrical utilities themselves. The problem is in convincing the public that a Government agency could efficiently run such an operation without suffering from a lack of experience in the area.

An article by Mr. Philip M. Perry in the August issue of the New Englander presented a concise analysis of the current question which will be on the State ballot in Massachusetts next year. Hopefully, this article will help clarify the issues in the debate, and I would like to insert it in the RECORD at this time:

THE PROS AND CONS OF PUBLIC POWER

(By Phillip M. Perry)

(Should the state own and operate the electric utilities? That is crux of debate that focuses on financing, taxes, rate control, plant management, and consumer attitudes.)

Should a state government build and operate its own power generating plants, and

eventually become the sole supplier of bulk electricity to private and municipal power companies?

Would that government be able to produce such power more cheaply than the privately-operated utilities, and would those savings be passed along to consumers?

"Yes," some people are saying in Massachusetts. "The state government can build power plants more cheaply than the private utilities because of their different financing method. They can use tax-free revenue bonds. This would free them from paying dividends to stockholders. This is an important consideration, because the private utilities have now applied for a rate increase to boost their return to stockholders to a level of 15%, from a past level of 9%. They need the increase in order to get more money to construct needed generating plants. The state, unlike the private utilities, would have to pay only local property taxes, not state and federal taxes. They would pay lower interest rates than the private utilities, as well. All these savings would be passed on."

"No," say opponents. "Start-up costs and lack of expertise on the part of a state agency would negate any interest and tax savings. And pending federal law may take away the tax-free status of those revenue bonds. Besides, the taxpayers would have to make up any decline in federal and state revenue. The real reason for the big increase in electric bills is the growing cost of oil."

Bay State referendum '76. Ten years ago, argument about public power authorities would have put many people to sleep. But consumer discontent with electric bills has added fuel to the fire of controversy in Massachusetts, where U.S. Rep. Michael J. Harrington (D-Salem) introduced an initiative petition calling for a state power authority.

While the Massachusetts House defeated the bill in May, 1975, Harrington is gathering enough signatures to force a referendum which will appear on the state ballots next year.

The public power authority as proposed by Rep. Michael Harrington includes the following provisions:

1. Its main purpose is to become the exclusive generator of wholesale power for sale to utilities in the Commonwealth.

2. It would have the power to "acquire, through construction, purchase, lease, condemnation or other procedure" power generation and transmission facilities.

3. After the Authority has been established for two years, no utility in the state would be allowed to construct new generation facilities. The private and municipal utilities would still be permitted to distribute electricity at the retail level.

4. The Authority would have an in-lieu-of-tax payment equal to the private utilities' local property taxes, but it would not have to pay federal or state taxes.

5. The Authority would be free from DPU regulation.

6. Towns now serviced by private utilities would be able to municipalize the distribution component of those systems. If a town votes to acquire the facilities of a local private utility, and that utility refuses to sell, the DPU would establish a fair price which the private utility would have to accept. (Under present law, if a utility refuses to sell, the town cannot buy.)

Tax-exempt bonds pushed. The Public Power Corp. Study Commission, established by Gov. Michael Dukakis, concluded that a public power authority could indeed finance generating facilities at a lower rate than could private utilities. Says its report, "A public power corporation could finance with tax-exempt bonds, taxable bonds or a combination of tax-exempt and taxable bonds . . . (whereas) private power companies in Massachusetts are financed with taxable bonds and equity (preferred and common stock) together with interest-free funds from accumulated investment tax credits and accumulated unamortized deferred income taxes."

The Study Commission concluded that, by 1985, the Authority could conceivably save consumers "$92-million, based on an estimated $4.4-billion which might be spent by consumers on electricity in that year."

Harrington began to follow the public power issue in the '60s, when he served on the Salem, Mass. city council. But he notes a sizable constituency on the issue has developed only in the past two years. Why does he feel that his voter referendum may have a better fate than the similar one proposed in Maine in 1973, but defeated there by a vote of 151,480 to 95,645?

Fuel clause changes attitudes. "The public attitude is now much different than it was two years ago," he says. "The fuel adjustment clause was a benchmark event. It triggered public outrage and discredited the private utilities in the eyes of the public in general."

Harrington says logic may be the least of the variables which will decide voters' decisions on the referendum. "You can make the argument that public power is cheaper. You can stand at a blackboard and jot down the figures. But that won't decide the issue. Whether the voters approve the referendum or not will depend on how they feel about the electric companies at that particular time. Emotion and philosophy will have the final say.

"The people distrust the utilities and the government. The question is, which one will they distrust more when it comes time to vote on the referendum? One thing is for sure: public indifference has ended permanently."

Harrington points to the power lobby as a key factor in the defeat of his initiative petition. How did the lobby operate? "Primarily, the utilities develop a very visible community presence," he says. "In each community they have one or two people who devote time to public relations, no matter what their official title might be. These people become known to local political structures and to the press.

"Too, the utilities develop a very sophisticated use of their employee base. The employes are briefed about the public power proposal. They are told that their jobs are at stake and are encouraged to lobby their legislators.

"A key element of this lobbying effort is the emphasis on the local property tax. For instance, in Salem the power plant accounts for 35% to 40% of the total local property tax. The utilities claim this golden egg will be lost."

"End of era for utilities." Harrington claims that the stakes in Massachusetts, which is the first industrial state to consider public power of this scope, are much higher than they were in rural Maine. "The utilities don't like the bill because they make their money and expand by building plants. To illustrate, in the '60s, they had the opportunity to buy cheap hydro-electric power from Canada. There was no financial incentive for them to do so, so they didn't—a point which shows that the whole issue is a public policy problem.

"No matter what happens on the referendum, all signs point to the end of an era in the utilities industry."

The proposal has drawn fire from prominent quarters. "Why should we compound our fiscal problems by creating another public bureaucracy?" asks Robert Bell, chairman of the Malden (Mass.) Chamber of Commerce, who points out that there is no guarantee that the Authority would pay funds to municipalities in lieu of taxes.

Ronald F. Frazier, manager of public affairs, South Shore Chamber of Commerce, complains that "the power authority would be answerable to no one, and the consumer would have no opportunity to express opposition to rate increases."

Thomas A. Sampson, vice president of the Greater Boston Chamber of Commerce, speaks out against the proposal, stressing among other reasons, that "historically, public ownership of production or distribution facilities has not proven to be more economical than private ownership in the absence of subsidy from federal, state or municipal sources."

J. J. Golner, director of engineering and technology at Borden Chemical, Peabody, complains that "it would reduce accountability . . . if the state itself is the utility, there is no third party to compel responsiveness if there are complaints."

Boston Ed: "no savings." James M. Lydon, vice president—corporate relations, Boston Edison, offers the private utilities' reaction to the proposed Authority. His firm, which employs 4,100 people, is looking for room to expand its corporate offices which now fill four floors of the Prudential Tower in Boston.

"The fundamental question," Lydon says, "is whether or not the proposed Authority can generate and transmit energy cheaper than the private utility. In our judgment, there will be no savings. The start-up costs of the Authority, combined with state government's lack of expertise in the power field, will mean bulk power will actually cost *more*. The consumer bill, therefore, will be higher.

"It is true that the state can borrow money more cheaply now than can private companies. But there is no guarantee that the tax-free status of its bonds will continue, just as there is no guarantee that we can retain our investment tax credits. Also, private industry has the advantages of accelerated depreciation and deferred federal income taxes—something that generates cash early.

"It is ridiculous to say that private utilities need to keep investing in new plants to make a profit. One of our bases for decisions is 'how can we not make a capital investment?' Our goal is to produce power at the lowest possible cost.

"The bill says that the Authority may take away our plants, although Harrington says it won't. We aren't worried that it will, because it would be too expensive for the state to take them over, and that would again boost costs.

"Harrington is telling people that their electric rates will not go up if the state gets involved in energy generation. Actually, we will still have to raise 45% as much capital just to maintain service to customers. We have to raise $450-million in the next five years just to fund power lines, substations and other parts of the distribution field. Harrington has been misleading the public; it's a cruel hoax on his part—a case of political opportunism in an age when people are tired of high electric bills."

Utility lobbying justified. Lyndon defends the lobbying activity of the private utilities, which has drawn fire from some quarters. "Somehow the word 'lobbying' has taken on a bad connotation in the minds of the public," he says. "The purpose of our lobbying effort is to inform the public of the truth. We will spend more money on lobbying, if we have to, to get the truth across.

"Harrington has stated that we have 14 lobbyists working on the public power issue. That's not accurate. Most of those 14 are just employees who appear before regulatory agencies. In reality, there are only three employees of Boston Edison who are lobbying on this issue. Our records show that we have spent only $10,000 in the first four months of 1975 on our lobby effort for this issue. That's not much, when you consider Boston Edison is a $460-million business.

"Now, according to state records, Harrington didn't spend a nickel on *his* lobbying

efforts. But, as far as I'm concerned, the use of federal funds by Harrington on this issue should be investigated. After all, he's using federal tax money for state lobbying," claims Lyndon. "He should be forced to divulge the amount of money he's spending on this. He's traveling across the state, he's using the mails. His group, Consumers for Lower Electric Rates, isn't included on lobbying lists, and yet he's done more lobbying than the utility companies.

"If Harrington were as active in Washington trying to get lower oil rates, as he is in Massachusetts on the public power issue, we all would be better served."

Downeast turns thumbs down. In 1973, voters turned down a referendum calling for a Power Authority of Maine (PAM). Among the opponents was Norman J. Temple, vice president of the Central Maine Power Co., Augusta, which employs 1,940 people and serves 70% of the state.

A power authority for Maine is not a new idea; every Maine legislature since 1963 has considered the proposal. Why did the voters turn down the idea so resoundingly in 1973?

"There were basically three reasons," says Temple, who debated the issue on TV with proponent State Senator Peter Kelley. "First, we were able to point out the defects of the proposal. For example, there was no provision that rate increases by the Authority had to be approved by anyone. Second, there is a great deal of customer satisfaction concerning the quality of service of the private utilities. We were very quick to respond to storm damage in the winter—and that's an important consideration here in Maine. We do periodic studies of customers attitudes, so we know this is the case. Last, there is a deep-rooted mistrust of government on the part of Maine Yankees. They don't think the government will provide the same level of service."

Currently there is another bill before the state legislature which attempts to clear up the defects of past proposals. It requires that approval be obtained before the proposed Authority increases rates. A new amendment has been added to the bill requiring voter approval via referendum before the bill can become law.

No new private power plants. Unlike the current Massachusetts proposal, past Maine bills have not prohibited the state's utilities from building more generating plants after a two-year period. "However," notes Temple, "the practicalities of the thing meant we would not be able to build more plants, because they would only duplicate the efforts of the state." The company builds, on the average, one generating plant every ten years. The current Maine proposal contains a section prohibiting the private utilities from building plants after a two-year period.

To defeat the bill in 1973, Central Maine and other power utilities encouraged the growth of a 5,000-member citizen's group called Citizens Against a Power Authority for Maine (CAPAM). The Central Maine firm contributed $108,000 to CAPAM and spent an additional $53,000 on public relations, $15,000 of which was for the public opinion survey.

In the eyes of Central Maine Power, passage of a power authority bill would mean eventual takeover of the utilities. This is because the bill, like the Massachuetts proposal, encourages municipalization in order to sell the state-generated power. That cuts into the utilities' market.

"State government can't generate power more cheaply than private enterprise, due to the high construction costs of plants," stresses Temple. "The Authority would have no older plants, the low-cost power from which to temper the high costs of the new plants."

Collins pro public power. Michael F. Collins, manager of the Municipal Light Dept. in Wakefield, Mass., for 25 years, and past president of the American Public Power Assn., favors the proposed Authority. He claims consumer resistance to rate increases, combined with political pressure, has made it impossible for utilities to obtain the kind of financing they need at reasonable rates.

"A state Authority would have a greater ability to arrange financing but, equally important, would determine the needs for power more wisely and impartially. The Authority would not be promoting power use and would not be bound to the incessant search for rate base," says Collins.

"A state Authority would be willing and able to contract for power outside Massachusetts. Such an Authority in the mid-1950's would have been able to obtain hydro-power from the Niagara-St. Lawrence Project in New York. This hydro power would have been low-cost and non-polluting.

"There is growing evidence that an intensive, continuing program of power conservation is essential. Power companies are not able to deal with this to the extent necessary due to an ingrained need for constant growth of load and dollars," concludes Collins, who points to the success in the Canadian provinces, "which are almost totally public power," and similar public power authorities in New York and Nebraska as evidence that it can work in New England. "Just recently, Con Ed in New York had to appeal to the state to take over construction of two generating plants," he says.

Need more municipal units. Collins wants to see more municipal electric departments, and sees Section 2 of the Harrington bill (point No. 6 above) as a means to that end. "In recent years, Brookline wanted to establish a municipal department, but there was no way the private utility had to sell its plants and poles to the town. So the town had to give up the effort."

If opinion is so divided on public power, it is due to the number of variables that the issue involves. Will the state have to pay federal taxes in the future on its now tax-free revenue bonds? Will private utilities lose their investment tax credits? Will a state agency be able to run a generating plant with expertise? Will start-up costs of the agency negate any energy generating savings? Will price hikes by the private utilities in the distribution network negate any savings on power generated?

All remain matters of conjecture. The only point that is certain is that arguments about public power authorities, fueled by consumer discontent, no longer generate a ho-hum response.

("A state power authority would have greater ability to arrange financing; but, equally important, it would determine the needs for power more wisely and impartially. The authority would not be promoting power use and would not be bound to the incessant search for a rate base."—Michael Collins, manager, Municipal Light Dept., Wakefield, Mass.)

RAISING OUR CONSCIOUSNESS

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. ST GERMAIN. Mr. Speaker, we are all well aware of the changing status of women in today's society. The change is an overdue and welcome one, and we have begun the long process of undoing those discriminatory practices which kept women in a subservient, "second class" position for too long. Recent legislation to prohibit sexual discrimination in lending practices, housing, and several other public interest areas points to our willingness to recognize that women are no longer to be considered as extensions of their husbands, homes, offices, or typewriters, but must be seen as an intelligent, capable resource which our society has made far too little use of in the past. I am sure that in International Women's Year we will have our collective consciousness raised so that women and men alike will awaken to the potential which 52 percent of our population represents.

As we continue to build and improve upon the status of women in this country, we must act not on a piecemeal basis, but in a manner which indicates our willingness to deal with all aspects of discrimination against women. One area which I am sure will be addressed by the review currently underway in the Committee on Ways and Means concerns the adverse effects of the existing tax laws on both men and women. I recently received a very thoughtful analysis of this situation from a constituent in Esmond, R.I., which I would like to share with my colleagues:

OCTOBER 2, 1975.

DEAR SIR: I have considered you a forward thinking man and a just man, a believer in righting wrongs. The rules and regulations of the IRS are a slap in the face to one segment of "supposed American citizens"—women! Our lives go into a marriage—our contributions to and in a marriage equal the man's and yet, as widows, women are treated as having contributed nothing by the IRS. If more wisdom was employed in D.C., had been employed, taxes would not have to be as huge as they are. Thousands of unnecessary programs are useful in no way, as are studies of similarly noncontributing phases of existence—worthless. IRS rules and regulations must be changed—rapidly—as must most social security regulations. It is small wonder many women today look upon marriage as a dead end street. Our lives and contributions have been grossly insulted. We are not merely the cheapest labor available on earth. Until changes are made—rapidly—the U.S. is not a free country—not for women.

Sincerely,

R. G. FERRO.

MIA'S

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. STEIGER of Arizona. Mr. Speaker, the members of the Arizona Families of Missing In Action have written a letter to all the Members of the House of Representatives expressing their gratitude for the passage of House Resolution 335, regarding the missing in action of Southeast Asia.

As a long-standing supporter of this group, I include this letter at this point in the CONGRESSIONAL RECORD:

To those representatives in our Capitol who sponsored and supported the recently passed Montgomery House Resolution #335, regarding the Missing-in-Action of Southeast Asia, our sincere gratitude is hereby expressed.

To those representatives who voted to de-

feat the measure, our expression is to respect their entitlement to alternate views and convictions.

To those representatives selected to serve on the investigating committee, we can but pray that God grant each the wisdom, the personal conviction and the courage to complete his task with the thoroughness and sense of justice so desperately essential.

On countless occasions in our history, individual citizens have seen fit to forsake their country in peace and in war. The amnesty program now in effect amply demonstrates the ability of America to re-embrace and forgive. Yet, historically, it was not until the cessation of hostile American involvement in Southeast Asia that our government chose to pervertedly follow a course of forsaking those who served her.

That house wherein resides democracy and freedom, as any man-made structure, must be continually maintained and repaired. At present, the rats of inflation have infested its pantry. Crime falls upon its floors as plaster off a weakened ceiling. Inside, radiators go cooler and lights dim as energy is diminished. Outside, paint peels from insults of envy hurled by lesser nations seeking to secure their own world place. Yet, so long as the foundation remains firm, the house will stand and repairs can and will be made.

Our greatest concern since the signing of the Paris Peace Agreement has been that a serious fault has developed in the foundation of Democracy's home. Through inept statesmanship, political expediency or even darker reasons, a large number of American citizens were willfully forsaken by their governing body—citizens from which and for which that body indeed was created. We can only express sentiments of gratitude and joy that repairs may soon begin on that fault.

The agonizing expectations of thousands of common people, long involved in seeking a final determination to the Missing-in-Action tragedy, may soon be realized. The false promises and harsh passage of time may soon become rectified. During this Bicentennial period, we each harbor the personal hope that to the greatest extent possible the lives, bodies, souls and sacred honor of these unforgotten men may be brought home to live or rest eternally in peace.

ANNUNZIO INTRODUCES DEBT COLLECTION PRACTICES ACT

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. ANNUNZIO. Mr. Speaker, today I am introducing important new legislation that will for the first time comprehensively regulate debt collection practices. The Debt Collection Practices Act will amend the Consumer Credit Protection Act by adding a new title, title VIII debt collection practices.

There is an urgent need for this legislation because some debt collectors are abusing consumers with harassment, intimidation, threats, and deception. Often the debts are not even bona fide.

I want to make clear at the outset that actual debts should be paid. Debts do go unpaid resulting in a need for debt collectors. Yet, debt collectors can pursue this living without offending all standards of decency. They can and should treat consumers fairly and reasonably.

Debt collectors will use any tactic imaginable to collect a debt that often is not even legitimate.

On September 28, Parade magazine ran an article on the subject of this legislation, requesting that anyone who has had difficulties with unethical debt collectors to contact my office. The result has been a flood of letters from around the country recounting tragic stories of encounters with unscrupulous debt collectors. Many letters are from women, often recently divorced or deserted, who tell of being hounded by debt collectors who, without their knowledge or consent, call their friends and neighbors at all hours of the day and night to pressure the women to pay debts incurred by their husbands.

If you think only deadbeats are harassed by debt collectors, you are mistaken. A debt collector could get your name by accident, such as through a store's computer error, or any number of other mistakes. Regardless of your denial of the validity of the debt, you may then get the debt collector "treatment." This may include obscene or accusing phone calls to your home, or to the homes of your friends and neighbors at odd hours, and repeated harassment of your employer asking that you be pressured into paying. If this costs you your job, that is your problem, not the debt collector's.

Other tactics often used by unscrupulous debt collectors include threatening to put you in jail by taking legal action —often with simulated court orders— impersonating a sheriff or attorney; and in short, doing anything to get you to pay—even if you do not owe anything.

Consumers often owe money and are in the process of paying it back when a catastrophe such as a sudden disability strikes. There are many such people who want to pay their debts, and would, given a reasonable repayment schedule, but all too often they never get the chance and are hounded instead by unmerciful debt collectors.

Let me relate excerpts from some of the letters I have received. These letters communicate the truly sad consequences of permitting debt collectors to be unregulated.

One letter reads:

DEAR MR. ANNUNZIO: I read your article about unscrupulous bill collectors in Sunday-Register Sept. 28.

Here is something we were intimidated into believing. This notice about the sale of our house was sent to us and in our terror we believed it until later we found out the lot number was not even ours as provided by a copy of our grant deed enclosed.

Please do all you can to stop these storm troopers in the name of justice.

A consumer received a "Moneygram"—a document made to look like a telegram—with regard to an alleged doctor bill, yet all her doctor bills were covered by Medi-Cal. The Moneygram reads:

The next step in our collection procedure will depend on your response to this message. Investigation of your job, auto, and other property being made. Urgent you contact me regarding payment immediately.

This letter is from a newspaper which had intervened to help a consumer. Here are some excerpts from the letter:

Mrs. . . ., a polio cripple since age 4 and suffering from a terminal spinal tumor, was married to a crippled Vietnam war veteran who died of injuries received in war early May 1975. The couple has two small children.

A bureaucratic mixup caused Mrs. . . . to not receive either Social Security or Veterans Administration benefits until after she called this newspaper in early August. As a result in the delay of continuation of benefits, her sole income, bills piled up and creditors started giving her a problem. Her biggest concern was a new Thunderbird car, equipped for the handicapped, the couple had bought by trading in their other two cars. Credit life insurance was written by the dealership, (name deleted) through (name deleted) Insurance Company a company that has been sued several times locally for refusing to pay benefits on such insurance.

The account was then turned over to the Credit Bureau of (name deleted).

The collection agency was assigned to repossess the car. Mrs. ____ had secreted the car far from her home, but the agency sent what she called two thugs who got her out of bed at 4 a.m., July 30 and harassed her for an hour.

Intervention by this newspaper stopped the harassment, but recently (within the past two weeks) thugs in the night broke into a sister's car parked behind Mrs. ____'s car, moved it, and took the vehicle. Her crutches were in the car and the agency refused to give them back to her until she had a lawyer threaten them with legal action.

The following letter is from the accounting secretary of a health foundation:

I read with much interest the article in the September 28, 1975 issue of Parade magazine about unscrupulous bill collectors.

I work in the accounting department of a medical clinic which cares primarily for minority and financially indigent patients. One of my tasks is to process bills for payment from grant funds for this latter group of people. These payments would go to providers of medical care outside of our own clinic when our doctors had referred them.

Enclosed is a copy of a collection notice one of our patients received for a bill that is our responsibility for payment. However according to our records the bill is paid.

I was much interested in the form of the collection notice. It has an official-looking gold foil seal and of course, as you can see, the form has the appearance of an official document, such as a subpoena or a judgment.

I am not personally acquainted with the gentleman who received this notice. He is Spanish-speaking, and through a translator he appeared to be frightened of the consequences of this "document".

I feel that this type of collection form is unethical. I would be interested in your comments.

A consumer received the following bogus legal document in relation to a debt not owed. The pertinent part of the document reads:

PRE-EMPTORY DRAFT—VALUE RECEIVED

Demand is hereby made upon you for payment, on or before 10/03/75 of the total sum, past due, shown on statement made a part of this Pre-emptory Draft.

You are hereby notified that in the event that this Pre-emptory Draft is not honored within the time allowed, legal action will be recommended to enforce payment, without further notice whatever being sent you.

The attached letter from the consumer reads in part:

Please find enclosed said letter of which we have no record of oweing. We have no

past bills and we pay cash for everything we obtain.

This letter is from a couple who owed money, had some problems but still were trying to pay off the debts. Here are some excerpts from the letter:

I tried to explain our situation, that we were well aware of our obligation, that we would pay it just as soon as we could. This Mr. . . called us 11 times one evening, finally my sick husband talked to him he then threatened us, called us terrible swearing names, threatened to have us arrested. Said he personally wasn't going to let us beat (name deleted) out of their money and that was all we were trying to do.

We owned and operated our own Paint & Body Shop. He called every day, told anyone who answered our business. The last time he called he said I was lying, my husband was only hiding behind me. Well my husband collapsed that day, right after talking to him. We rushed him to the hospital. He had to undergo open heart surgery. He has been ill for the past 2½ years.

Our business is closed, and we are now helpless to do anything about any of our bills.

This letter comes from a couple who were harassed while paying off debts not even theirs. Following are excerpts from the letter:

My husband served in the Marines for seven and a half years, and spent two tours of duty in Vietnam. When he returned home after the last tour of duty, he found his first wife to be pregnant, and she and my husband's small daughter were living with the father of the expectant baby. They were also using my husband's name to charge any and every possible expense. Therefore, upon this cruel news, but also by a stack of overdue bills, all in his name.

To make a long story short, after our marriage in 1969, we began to try to tackle this problem, which only seemed to worsen. Everyday's mail brought new demands for payment, threats of legal action, and letters from lawyers and officials with the "state attorney general's office." We continued to pay as much as we could afford every week or month, whatever we felt we could swing without putting a really tight rein on our own meager budget.

One agency, in particular, was constantly badgering us with their demands and threats. It seemed to us that they were going to considerable expense to make these demands, as oftentimes, the overdue bill they were reminding us of would not amount to more than $10.00. Yet, they continued to press and threat and make outrageous demands upon us.

So the suit had set on the court docket for a year and no one had ever bothered to inform us that we were being sued for 90c.

We paid the 90c and personally requested the "manager" of this agency to move as quickly as he could to get it off the docket as our VA application had already been held up for three weeks. Another three weeks later, some more phone calls, and a visit from our lawyer, who threatened to sue them and the 90c lawsuit was wiped off the court records, as well as our own.

We have now been in our new home for 45 days. We feel that we have earned the right to join the human race. We paid off around $2,000 in bad bills, while we did our best to maintain some sort of home life for us and our two small children. With the processor and sheriff banging away at the door at all hours of the night, the phone calls, and the "special delivery letters" any attempt at a normal life was just about impossible.

We are now free of the bonds of these people. We owe them absolutely nothing and, to be sure, it is a great feeling. Our feeling, throughout the whole ordeal, was to pay off what we felt we owed—after all, they were in my husband's name, instead of taking the easy way out—filing for bankruptcy or Chapter 13. When we took the more difficult course, and, in essence, the honest course, we still received the most repulsive type of attitude. Dealing with these people is similar to giving detailed directions to a man who is blind and doesn't speak English. They just don't understand your language unless you have the access to threaten them with the same type of legal action they have laid on you in the past.

There are millions in this country who are being harassed by these same tactics. Many don't think they have a legal foot to stand on. It's "pay up—or else" and that's all they know. That's all we knew for seven years. There is no good excuse for failing to pay your bills if you are able. But, with prices and salaries the way they are today, I can understand why many people are just not able—especially when they are doctor's bills. If a family is not able to pay for that color television, that new car, they should not even consider signing a contract obligating them to 24 or 36 months worth of payments. That's just common sense. In our case, we had no choice. We didn't have a color TV or new car. We were paying bills that weren't even ours and we never received any benefit from those payments.

In addition, anyone with an "account" at a collection agency should go to that agency and thoroughly look over their record to determine what is theirs to pay and what isn't. Our record was full of debts already paid off and two accounts in my sister-in-law's name—which were both supposed to be good, but, instead, were rated as bad.

Good luck in your endeavor. And, thank you for whatever action you are able to take.

This legislation will end such horrendous practices by debt collectors. The legislation provides a detailed list of prohibited practices and strong enforcement provisions.

This act does not set up a new bureaucracy. Nor does it involve a complex licensing procedure.

Instead, there are stiff civil penalties to permit consumers to take action against debt collectors who violate the act.

Included in this act are prohibitions against harassment, unfair practices, and false and misleading representation.

Some of the prohibited practices include:

Using abusive, profane, or obscene language;

Soliciting post-dated checks;

Making harassing or threatening phone calls to the place of employment or home of the consumer;

Obtaining information from any source about a consumer on false pretences or through false representation; and

Threatening a consumer with imprisonment for failure to pay an alleged debt.

The act will be enforced through civil liability provisions, private Attorney General actions and criminal penalty.

The Federal Trade Commission will administer the act and prescribe regulations to implement it.

In an earlier statement I indicated the scope of this legislation would include all creditors. As introduced, the act applies just to debt collectors. I feel that the most flagrant offenders in debt collecting abuses are debt collectors rather than creditors. Debt collectors are in the business solely to collect debts of others, not to collect for products they sold or services they rendered. Also, most financial institutions are already regulated by Federal agencies, as are other creditors. At present, no Federal agency regulates debt collectors.

I would like to first pass a strong effective law regulating debt collectors. If I find that creditors are abusing consumers, I will seek to have Federal agencies publish regulations to restrain creditor conduct. If that approach is not successful, I can offer legislation to amend this act to include creditors.

Abusive debt collection practices will affect all of us at one time or another. If a debt collector cannot conduct his business without resorting to deception, threats, and intimidation there is something terribly wrong with his business.

The Debt Collection Practices Act will spare consumers from humiliating and terrifying harassment, allow mistakes to be cleared up reasonably, and not deter reputable debt collectors from arranging for consumers to repay legitimate debts.

THE FEDERAL ELEMENTARY AND SECONDARY SCHOOL ASSISTANCE ACT

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. PERKINS. Mr. Speaker, I am today introducing the Federal Elementary and Secondary School Assistance Act, a bill aimed at making a bold commitment to improve the quality and equality of public education for children and youth.

As we prepare to celebrate our 200th anniversary as a nation, we can be proud that our country has accepted the principle that the opportunity for an education is every child's birthright. This means that if all children are to achieve their full potential, they must be guaranteed the opportunity for an education that fully develops their capabilities regardless of sex, race, religion, or socioeconomic background. And the achievement of this birthright can be helped enormously by a national guarantee of a quality education for every child. Broadening the base of school support in order to equalize the educational opportunity for all the Nation's children is essential to this achievement.

Therefore, the legislation that I am submitting today would make the Federal Government an equal partner with the States and with local communities by sharing one-third of the current cost of public elementary and secondary education. This proposal for a one-third Federal funding of public schools has been long advocated by the National Education Association and other leading national educational organizations.

I believe that after almost 200 years it is about time for Congress to take a good first step toward making this commitment to our children and youth. And I believe that the National Education Association is to be highly commended for drafting the fine bill I am introducing today to achieve this commitment.

Public school education in the United States faces a crippling financial crisis. While rampaging inflation and demands for better education for all youth are driving the costs of education higher, both taxpayers and the courts are challenging increases in the traditional sources of school funds.

Many school districts, in response to relentless fiscal pressure, are being forced to reduce educational services, thus reversing their strenuous efforts of recent years to upgrade education. However, the demand for increased and improved educational services continues unabated as the concept of equal educational opportunity for all is pressed toward reality.

Caught between rising costs and lagging revenue, school systems of all sizes are retrenching—sometimes drastically. Many school systems have cut back on the number of teachers and have shortened the school day. This has resulted in cutbacks for programs in art, music, health services, reading, libraries, counseling, physical education, driver education, and other programs. Many school districts have reduced allowances for substitute teachers, teacher aides, and maintenance of school buildings.

While needs are mounting, additional State and local funds are shrinking. New State and local taxes and increased levies are harder to get after a decade when per capita State and local taxes have more than doubled.

At the same time, legal action is being taken in many States to invalidate school financing systems that discriminate in expenditures on the basis of the wealth of the school district. Local property taxes currently supply 48.6 percent of school support, with 43.6 percent coming from State sources, and 7.8 percent from Federal aid. A wealthy school district can finance schools well with a low tax rate on a high assessed value. In a poor district, however, even high rates yield little revenue for schools.

In California, the highest State court found that local property tax financing invidiously discriminates against the poor by making the quality of a child's education a function of the wealth of his or her parents and neighbors rather than the wealth of the whole State. Courts in other States are following this same line of reasoning.

The logic of the California decision is being followed in other States. With or without pending court cases and final appeals, States are looking at ways of funding schools which will equalize both the burden for the taxpayers and the educational opportunity for youth. To bring all local districts up to the spending level of the highest districts is extremely expensive. To equalize costs by reducing expenditures in the higher districts would entail serious cuts in the educational program for many students.

The legislation that I am introducing will expand the Federal role from that of funding special programs deemed to be in the national interest, such as those involving the physically and economically disadvantaged, to include broad general support for all public education.

Approximately $14.5 billion is necessary to implement the act and is requested to be advance funds. This amount will be divided among the States on a formula which includes such factors: First, the ability of the State to finance education; second, the number of school-age children in the population; and third, the number of children enrolled in public schools.

The formula provides a composite grant to each State that includes a flat grant of $140.38 per child and an equalizing grant that varies according to ability as reflected in the allocation ratio. The net result is a national average amount per pupil in average daily attendance—ADA—of $345.

The full text of the bill follows:

H.R. 10145

A bill to establish a permanent Federal program of assistance for elementary and secondary education

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Elementary and Secondary School Assistance Act".

FINDINGS AND PURPOSE

SEC. 2. The Congress finds that public education in the United States faces a crippling financial crisis which makes it necessary that the Federal government make a commitment to assume its full obligation as a partner with the States and localities in improving the quality and equality of the education provided by the nation's public school system.

It is therefore the purpose of this Act to assume the obligation to provide financial assitance to the States amounting to one-third of their costs of providing public elementary and secondary education, such assistance to be provided in a manner which will further equalization of educational opportunities; but, by the provision of such assistance, the Congress does not intend to supplant any of the Federal assistance being provided for particular educational purposes or to meet special educational needs.

GRANTS TO STATES

SEC. 3. (a) Each State which has a State plan approach under section 5 for any fiscal year ending prior to October 1, 1977, shall be entitled to a grant under this Act in an amount determined under section 4.

(b) From the sums appropriated under section 7 and subject to the other provisions of this Act, the Assistant Secretary shall make a grant to each State for each fiscal year in an amount to which it is entitled as determined in accordance with the provisions of this Act.

AMOUNT OF GRANT

SEC. 4. (a) The aggregate amount to be granted all States for each fiscal year shall be an amount equal to one-third of the aggregate current expenditures in all States (for the second fiscal year preceding such fiscal year) which were derived from State or local sources.

(b) The grant for each State for a fiscal year shall be the amount determined under paragraph (1) plus the amount determined under paragraph (2).

(1) The amount determined for a State under this paragraph shall be an amount which bears the same ratio to 50 per centum of the aggregate amount to be granted all States for that fiscal year as the school-age population of the State bears to the school-age population of all the States.

(2) The amount determined for a State under this paragraph shall be an amount which bears the same ratio to 50 per centum of the aggregate amount to be granted all States for that fiscal year as the product of (A) the average daily attendance in elementary and secondary schools of the State, and (B) the State's allocation ratio, bears to the corresponding products for all the States.

(c) For purposes of this section:

(1) The school-age population of a State is the number of children aged five to seventeen, inclusive, in the State as determined by the Assistant Secretary on the basis of the most recent satisfactory data available to him.

(2) The average daily attendance in elementary and secondary schools in a State shall be determined in accordance with State law.

(3) The "allocation ratio" for a State shall be 1.00 less the product of (A) 0.50 and (B) the quotient obtained by dividing the income per child of school age in the State by the income per child of school age in all the States. For purposes of this paragraph, the term "income per child of school-age" in a State means the total personal income in the State divided by the number of children aged five to seventeen, inclusive, in the State.

STATE PLANS

SEC. 5. (a)(1) Any State desiring to receive a grant for any fiscal year under this Act shall (A) establish a program review committee which meets the requirements of paragraph (2) of this subsection and (B) submit to the Assistant Secretary, through its State educational agency, a State plan, approved by such committee, at such time and in such detail as the Commissioner may deem necessary.

(2) The program review committee shall be appointed by the State educational agency, and shall be broadly representative of persons having a special interest in elementary and secondary education, including school administrators, teachers, members of local educational agencies, and parents. At least a majority of the membership of each committee shall be persons actively engaged as classroom teachers in public elementary and secondary schools who are selected from panels of names submitted to the State educational agency by the organized teaching profession. It shall be the duty of the program review committee to examine any State plan (including any revision of State plan it has previously disapproved) proposed to be submitted by the State educational agency, and, within thirty days after it has received such proposed plan, inform the State educational agency whether it approves or disapproves such plan. There is authorized to be appropriated such sums as may be necessary to enable the Assistant Secretary to make grants for the expenses of program review committees, but no such grant shall exceed $50,000 for any fiscal year.

(b) The Assistant Secretary shall approve a State plan for a fiscal year if he determines that the plan—

(1) designates the State educational agency as the sole State agency for administration of the State plan;

(2) provides a program under which Federal funds shall be granted to local educational agencies to be used by them in a manner which will contribute to the equalization of educational opportunities in the schools of the agencies, but such funds may be used only for current expenditures of the agencies;

(3) provides for distributing the Federal funds among local educational agencies in the State in a manner which meets the requirements of section 6;

(4) provides assurances satisfactory to the Assistant Secretary that the State will maintain its State fiscal effort for public elementary and secondary education purposes for each fiscal year at a level, per child of school-age, not less than its fiscal effort for such purposes for the second preceding fiscal year.

DISTRIBUTION OF FUNDS WITHIN STATE

SEC. 6(a)(1). The Assistant Secretary shall develop criteria to be applied by State educational agencies in the distribution among local educational agencies of funds granted the States under this Act (except for the fiscal year 1977). Such standards shall—

(A) be consistent with such standards as

may be required under the fourteenth article of amendment to the Constitution of the United States;

(B) require that the funds be concentrated in local educational agencies which, by reason of lack of financial resources of their own, are in need of additional funds to equalize the educational opportunities afforded their students with those afforded students of other local educational agencies in the State; and

(C) give appropriate recognition to the higher cost of education to local educational agencies serving areas with high concentration of low-income families and heavily urbanized areas.

(2) In the case of a State in which there is no local educational agency, or in which there is only one such agency, the criteria developed by the Assistant Secretary shall provide for making assistance available to defined areas in the State in a manner which will contribute to achieving the purposes of this Act.

(b)(1) Not later than April 1, 1975, and at such later time as he may determine, the Assistant Secretary shall publish such criteria in the Federal Register and submit such criteria to the President of the Senate and the Speaker of the House of Representatives.

(2) During the sixty-day period following such publication, the Assistant Secretary shall provide interested parties with an opportunity to present views and make recommendations with respect to such criteria. Not later than ninety days after their publication, the Assistant Secretary shall (A) republish such criteria in the Federal Register, together with any amendments thereto which he deems to be merited, and (B) publish in the Federal Register a summary of the views and recommendations presented by interested parties under the preceding sentence, together with the comments of the Commissioner respecting such views and recommendations.

(3)(A) The criteria published in accordance with paragraph (2), together with any amendments thereto, shall on the date of their publication be submitted to the President of the Senate and the Speaker of the House of Representatives. If either the Senate or the House of Representatives adopts, within 150 days after the criteria are submitted to it, a resolution of disapproval of such standards, the Assistant Secretary shall, within fifteen days after the adoption of such resolution, publish new criteria. Such new criteria shall take into consideration such views and policies as may be made in connection with such resolution and shall become effective upon publication.

(B) A resolution of disapproval for which provision is made under subparagraph (A) may be in the form of a resolution of either the Senate or the House of Representatives or such resolution may be in the form of concurrent resolution of both Houses. If such a resolution of disapproval is in the form of a concurrent resolution, the new criteria published in accordance with the second sentence of subparagraph (A) shall be consistent with such policies as may be established by such concurrent resolution.

(C) If each of the Houses adopts a separate resolution with respect to criteria submitted in accordance with subparagraph (A) for any year and in connection therewith makes policy statements which differ substantially, then such differences may be resolved by the adoption of a concurrent resolution by both Houses. Any such concurrent resolution shall be deemed to be adopted in accordance with subparagraph (B).

(c) For purposes of this section, an amendment of an existing criterion shall be deemed to be a new criterion.

APPROPRIATIONS

SEC. 7. There is hereby authorized to be appropriated for the fiscal year 1977 such sums as may be necessary to make the grants provided for in this Act for the fiscal year 1977 and the fiscal year 1978, and there are also authorized to be appropriated for each fiscal year after the fiscal year 1977 such sums as may be necessary to make the grants provided for in this Act for the period ending at the end of the fiscal year following the fiscal year for which appropriated. If the sums available from appropriations for grants under this Act for a fiscal year are inadequate to make in full the grants to which States are entitled under this Act, then the grants to all the States shall be reduced pro rata to an aggregate amount which does not exceed the amount so appropriated.

DEFINITIONS

SEC. 8. For purposes of this Act—

(1) The term "Assistant Secretary" means the Assistant Secretary of Health, Education, and Welfare for Education.

(2) The term "State educational agency" has the meaning given such term in section 801(k) of the Elementary and Secondary Education Act of 1965.

(3) The term "local educational agency" has the meaning given such term by section 801(f) of the Elementary and Secondary Education Act of 1965.

(4) The term "State" has the meaning given that term by section 801(j) of the Elementary and Secondary Education Act of 1965, and includes the Trust Territory of the Pacific Islands.

(5) The term "current expenditures" has the meaning given that term by section 403(f) of title IV of Public Law 874, Eighty-first Congress.

AMENDMENT OF GENERAL EDUCATION PROVISION ACT

SEC. 9. Section 400(e)(2)(B) of the General Education Provision Act is amended by striking out "and" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting "; and", and by adding at the end thereof the following:

"(iii) to expenditures under the Federal Elementary and Secondary School Assistance Act."

EFFECTIVE DATE

SEC. 10. This Act shall become effective on the date of its enactment, except that grants to States under section 3 shall be made only with respect to periods beginning with the first day of fiscal year 1977.

MAJOR STEP TOWARD PEACE

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. RINALDO. Mr. Speaker, it is now more than a month since the Israeli-Egyptian agreement was signed, and it is high time that the Congress endorsed this major step toward peace in the Middle East.

History has shown us that instability in the Middle East threatens world and U.S. interests. Tension in this center of oil production jeopardizes the economy of industrialized and developing nations; strains U.S. relations with our allies in Europe and Japan; increases the prospect of direct United States-Soviet confrontation; and endangers the survival and security of Israel—the only true democracy in the Middle East.

The resolution before us today represents the first step in permanently easing tensions in the Middle East. The 200 U.S. technicians in the Sinai will be a cornerstone on which to build Israeli-Egyptian coexistence and cooperation.

Viewed from this perspective, the agreement clearly is not pro-Egypt, pro-Arab, or pro-Israel; it is pro-peace. And it is equally clear to all of us who are seeking a solution to these problems that without such resolve and action on the part of the United States, the Middle East will remain an area of anguish, turmoil, and peril.

To weaken the agreement by voiding some negotiated U.S. commitments would be a blow, not only to the prospects of world peace; but it would undermine Israel's significant cooperation and go against our own national interests.

It is a pact for international cooperation and for peace. To weaken it now would be to retreat from further efforts at building peace in the Middle East. Once approved, we can turn to the second essential task of providing economic and military aid for Israel. I intend to support such assistance when it comes to the House floor in the next few weeks.

But our immediate task, Mr. Speaker, is to pass this resolution. I urge the House of Representatives to vote for peace and to approve the presence of U.S. civilian technicians in the Sinai.

SPECIAL HONORS FOR AN EXTRAORDINARY COUPLE

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. VANIK. Mr. Speaker, on October 21, 1975, Mayor Irving Konigsberg and Elsa Konigsberg, two distinguished citizens of our community, will be honored by the congregation of the Fairmount Temple, on behalf of our entire community for their devoted and untiring public service. Irving Konigsberg has been the mayor of the very special community of University Heights, Ohio for 10 years. He has served not only University Heights with distinction, but has been very active in his role as president of the Northeastern Ohio Area Wide Coordinating Agency serving the whole of the northeastern multicounty region of Ohio.

Mayor Konigsberg has also served with distinction as the president of the Cuyahoga County Mayors and Managers Association and the Regional Council of Governments.

Elsa Konigsberg is an equally extraordinary person who has raised a fine family, while pursuing a career in community relations. Through her work at Cleveland State University, Mrs. Konigsberg founded a very extensive, groundbreaking school-community relations program, serving now as a consultant to that program. Mrs. Konigsberg has been very active in local and State Parent-Teacher Association programs, serving as State PTA chairman for human relations. We join in the well-deserved salute to Mayor and Elsa Konigsberg at the Fairmount Temple. The Konigsbergs are a great credit to our entire community. I wish them continued strength and good health for their continued achievements in public service.

TEACHER STRIKE SCANDAL

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. CRANE. Mr. Speaker, American education is in real trouble. Scholastic aptitude test scores have been falling every year since 1962 and the latest figures, based on last year's tests taken by 1 million high school students, show that the trend is continuing. Over the past 12 years the average score has dropped from 478 to 440 on the verbal test and from 502 to 478 on the mathematics test. The highest possible score is 800.

Helping to confirm the general downtrend in learning, the National Assessment of Educational Progress, a federally funded testing organization, reported in March that students knew less about science in 1973 than they did 3 years earlier. The test, which covered 90,000 students in elementary, junior, and senior high schools in all parts of the Nation, showed the sharpest decline among 17-year-olds in large cities.

It is our large cities which have, in recent days, been faced with illegal strikes by schoolteachers. As test scores continue their downward trend, and as education deteriorates, teacher unions demand still more money, fewer students, and shorter working hours. This in the face of the fact that teacher salaries are higher than ever before and that more money is being spent on education in the United States today than at any point in our history.

Discussing the recent rash of teacher strikes, Anthony Harrigan, executive vice president of the U.S. Industrial Council, notes that—

The schooling of untold numbers of children has been seriously disrupted by the walkouts which took place in many states. Moreover, the children were shown an example of irresponsible behavior on the part of those who are supposed to teach responsibility . . .

The National Education Association has increasingly become a political body, concerned not about whether children can read and write, but about candidates in local, State, and National political campaigns. Terry Herndon, the NEA executive secretary, recently stated that—

Our ability to back political commitments has been noted in every State and in the Halls of Congress.

Mr. Harrigan comments that—

If the NEA is involved in politics outside the classroom, can parents be sure that politics aren't carried into the classroom? If teachers will take part in a militant strike action, contrary to the interests of school children . . . they aren't likely to hesitate to utilize propaganda in the classroom and thereby use their instructional positions to influence the rising generation.

Monopoly unionism, Mr. Harrigan declares, "has no place in the schools of the 50 States. It turns schools into battlegrounds and disrupts and sacrifices the education of young Americans."

I wish to share with my colleagues the column, "Teacher Strike Scandal," by Anthony Harrigan, which was released for nationwide distribution by the U.S. Industrial Council on September 18, 1975, and insert it into the RECORD at this time:

TEACHER STRIKE SCANDAL

In recent weeks, thousands of unionized public school teachers displayed a shocking contempt for the educational needs of young Americans as they went out on strike. The schooling of untold numbers of children has been seriously disrupted by the walkouts which took place in many states. Moreover, the children were shown an example of irresponsible behavior on the part of those who are supposed to teach responsibility.

Parents undoubtedly regard shutting down public schools through strike action as an intolerable abuse of power. Such action is in a class with depriving a community of police, fire and hospital services. It should not be permitted. If teachers strike, they should be summarily replaced with persons who are sincerely committed to the education of young people. Certainly, it is unconscionable to curtail a child's schooling in order to strengthen a union negotiating position.

The current crop of teachers' strikes should focus public attention on the outlook and ambitions of teacher unions and lobbies. Americans must realize that teacher unions and associations are deeply involved in partisan activities.

The attitude of the National Education Association was clearly revealed by its executive secretary, Terry Herndon, at the organization's annual convention in July.

Mr. Herndon said that the organization's activities had "produced a very good year in political action." He declared:

"Our ability to back political commitments has been noted in every state and in the halls of Congress. NEA members this year directed their money and talents to the political process in unprecedented numbers. Through NEA-PAC, teachers invested $225,000 in political action. Most state and local PAC groups added their endorsements and dollars to give us a total financial commitment of almost three million dollars. But perhaps the most remarkable contribution to our political success was the thousands and thousands of hours that teachers personally contributed to the campaigns. The dollars and the people paid off; 290 of 310 candidates backed by teachers won seats in the 94th Congress."

Mr. Herndon continued:

"We are going for bigger stakes in 1976. We have learned from the failures of the present Congress to override Presidential vetoes on key economic issues that we need even more responsive Congressmen and Senators. Even better, we might elect a President of the proper type and stop worrying about veto overrides and federal agency behavior."

No doubt many parents would be profoundly shocked to realize that the NEA, which presents itself on the local level as a professional educational organization, is up to its ears in partisan politics.

If the NEA is involved in politics outside the classroom, can parents be sure that politics aren't carried into the classroom? If teachers will take part in a militant strike action, contrary to the interests of school children and disruptive of the community, they aren't likely to hesitate to utilize propaganda in the classroom and thereby use their instructional positions to influence the rising generation.

Monopoly unionism has no place in the schools of the 50 states. It turns schools into battlegrounds and disrupts and sacrifices the education of young Americans.

Quality education cannot coexist with teacher unions or unions that masquerade as professional associations. Education is too crucially imprtant to be controlled by a new breed of union bosses who are willing to prevent American youngsters from getting schooling if the taxpayers don't meet the union bosses' demands.

THE DANGERS OF ENVIRONMENTAL EXTREMISM

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. BROWN of California. Mr. Speaker, in recent days we have all been reminded, quite rightly, that environmental protection legislation cannot be extreme in its impacts. Because of my own role in some of our recent debates, I have been accused of being "one of those extremists." Normally such charges do not concern me, but in the midst of this rhetorical climate I came across an article by Dr. Paul Ehrlich which put matters in an entirely different perspective.

Mr. Speaker, I insert the article by Dr. Ehrlich, entitled "The Benefits of Saying Yes," into the RECORD. The article appeared in the September issue of the Bulletin of Atomic Scientists, and should be considered by every Member of this body. The article follows:

THE BENEFITS OF SAYING YES!

(By Paul R. Ehrlich, professor of biology at Stanford University and founder of BUST—Biologists for Unbridled Science and Technology)

NOTE.—The writer acknowledges his debt to Freeman Dyson for pointing out the deleterious effects of eco-freaks and neo-Luddites on technological innovation and scientific creativity.

The scientific community certainly owes a great debt to Freeman Dyson for his analysis of "The Hidden Cost of Saying No!" (*Bulletin*, June 1975). It seems to me, however, that his pioneering effort should be deepened and expanded at a time when the gallop of technology (which has brought the good life to almost a quarter of the people of the world) seems threatened by various doomsayers, eco-freaks, and neo-Luddites.

As an instrument and multi-engine rated pilot, I can testify to the stultifying effect that killing the SST has had on innovation in American aviation. It is clear to me, for instance, that cancelling the SST has had the same kind of dreadful consequences for aviation as did cancelling the Convair XFY–1 VTOL fighter in the mid-1950s. Professor Dyson is much too kind to the opponents of the SST. He mentions only the argument of its possible adverse effect on the balance of payments (which may well have been the one that moved Congress) and neglects to excoriate those who, for instance, seem to have a sentimental attachment to the ozone layer. Just think, destroying much of that layer would substantially weaken the stratospheric temperature inversion and permit mixing of air pollutants into several times the volume of atmosphere now available to them—an enormous boon to industry as it attempts to maximize the planetary entropy. And we could, of course, after the global weather patterns, bringing on the rapid, unpredictable changes that Dyson correctly points out might make more of Earth's surface arable.

Professor Dyson did not bore his readers with the detail that any rapid changes in climate would probably be a disaster for agriculture and lead to hundreds of millions or perhaps billions of deaths, but some Pollyanna is sure to raise the point. As a population biologist, I can assure the reader that if Homo sapiens were killed back to 2 billion individuals by a rapid but ultimately favorable change, the survivors could easily expand the population up to a new carrying capacity of, say 8 billion in less than a century. Of course, if the climate became semi-permanently unfavorable, we might be stuck with a carrying capacity of 2 billion for

awhile. At any rate, a pessimal estimate of the cost of the SST and related technological innovation would probably be no more than 2 billion lives.

It is a pity that Dyson did not expand his SST example further to include the ozone scare. If, for instance, mankind decided it was better not to attempt to carry on in an environment reminiscent of a toilet seat under an ultraviolet sterilizer, then a vast area for innovation would be opened up for designing a physical or chemical sunscreen for the planet and installing it. And think what a lot of jobs would be created for out-of-work physicists and engineers!

The sunscreen project may go forward anyway, since it now appears possible that another triumph of technology—the fluorocarbon aerosol propellant—will destroy the ozone for us even without the SST. This possibility demonstrates once and for all the vacuousness of the arguments of the SST opponents. Without the ozone, the opponents are only left with silly quibbles. They can claim that it isn't equitable to generate sonic booms that destroy the peace and quiet of hundreds of millions of people, damage their property, and risk the lives of surgical patients in order to allow a few rich businessmen to suffer severe jet lag. Or they might nitpick that SSTs would waste huge amounts of fuel (a resource any economist knows is infinite), or that their contrails might cause unpleasant changes in the weather (which we now see would be a benefit rather than a cost).

Yes, as I fly a noisy, inefficient twin-engined aircraft, attempting to cope with an overly complex and confusing air-traffic control system and undependable electronics, or when I travel in airliners in which visibility from the cockpit is highly restricted, airliners in which leaking toilets may cause engines to drop off or in which control cable routing may be fatally flawed, I often think about how canceling the SST has removed opportunities for innovation in aviation. It is a tribute to the brainwashing power of the ecofreaks that no one in my wide circle of acquaintances in aviation has realized that the SST fiasco is the reason that problems besetting aviation today are not being solved innovatively. Doesn't everyone understand that the only way to progress in aviation is to fly higher and faster?

Perhaps my greatest pleasure in Dyson's article was reading his put down of my well-meaning but confused colleague Professor Paul Berg. Professor Berg and his coworkers worried that their research was going in a direction that could possibly lead to grave difficulties for mankind. They, like many other naive biologists, have been concerned not only about their specific hybrid DNA experiments but also about the long-range consequences of genetic engineering in general. This is in part because an accident in certain types of genetic engineering experiments (not those of immediate concern to the Berg group) could kill millions. The possibility cannot be ruled out that a virus could be constructed that would kill everyone. But I am sure Dyson would agree that killing everyone would not be a good idea since that would tend to dampen the opportunities for innovation.

Professor Berg and his colleagues, who I will call the Concerned Biologists, have really done the unthinkable. It was a sad day for science—indeed for all professions—when they sat down as an international group and agreed on voluntary safeguards and restrictions on their kind of genetic engineering research. The voice of reason, calling for laissez-faire, was barely audible in the chorus of concern about possible risks to workers in laboratories, the public at large, and the ecosystems of the planet.

Where will all this lead? If professionals start to allow concern for the welfare of mankind to intrude on the fundamental value of in-group loyalty and the attitude that "nobody can tell me I can't do an experiment," then the end is indeed near. As scientists, we must learn to bear the risks we create for others stoically. Already there are enough atavists claiming that society should have a say in risk-benefit analysis. The Concerned Biologists are worried that poorly informed politicians will themselves attempt to place restraints on research, unenforceable restrictions that will inhibit progress by responsible and ethical scientists and provide little or no control over the unethical and incompetent.

Surely we must convince these misguided biologists that "stonewalling," concealing risks from the public, and denying the need for self-policing—the classic strategy of all professionals—is the only way to avoid interference with our God-given rights to conduct whatever experiments we please. The Concerned Biologists have opened the door to these suppressors of innovation by seemingly admitting that some scientific endeavors carry risks that outweigh their potential benefits.

I think the problem of the Concerned Biologists is readily diagnosed: they lack moral fiber. Contrast the Concerned Biologists' position with that of the team of bomb-test physicists at Los Alamos in July 1945. Those physicists knew the threat of atomic bomb development by the Axis was over, and yet they had put together a very innovative device. They thought there was some chance that exploding a nuclear bomb would detonate the atmosphere, but a calculation showed that chance to be very small. So they went ahead. Would the Concerned Biologists have gone ahead and taken that tiny risk of wiping out life on the planet? Would they have had the foresight and guts to decide to take a chance with the lives of every living creature, including all of their fellow men? Clearly they would not—for they lack the ethical background of those who promote big science as the ultimate human value.[1]

And this leads me to my only quarrel with Dyson's article, and a minor one it is. He did not discuss the best of all what-if cases in support of our point of view. What if all the physicists of the world had gotten an attack of the kind of scruples shown by the Concerned Biologists and refused to release the power of the atom? Consider what the results of such immoral defection would have been. So many areas of technological innovation would have been damaged or wiped out that the mind boggles. We never would have discovered how large or small a fission bomb could be made or whether a hydrogen bomb was feasible. It seems doubtful that ICBMs ever would have become big business, and all those technicians now struggling to improve SLBMs, MIRVs, MARVs and the like would be unemployed.

Mankind would have been denied a chance to use cheap, abundant power to conquer nature and might have been forced instead to learn to coexist with her. Entire areas of intellectual endeavour, such as deterrence theory and studies of the biological effects of radiation, would have been stifled and, in the absence of the Atomic Energy Commission, mankind today would remain hopelessly ignorant of the limits to which lies, obfuscation, and incompetence can be carried. Perhaps most seriously, we would have discouraged eager young scientists in dissident groups or poor nations from finding innovative ways of producing supercriticality from non-weapons-grade plutonium. Can we afford to stifle science among the young and the poor?

The message is clear for all of us. Some people do not understand that technological progress, as we define it, is the greatest good for mankind. Some actually think that a public dampening of the idea that anything that can be done should be done is good. Some put forward the notion that the negative consequences of many technological advances, such as the release of nuclear energy, far outweigh any possible benefits. Real radicals even claim that mankind would do well to shift its research emphasis away from generating new technological circuses toward the more difficult problems of innovation at the levels of intermediate technology. And traitors to their professions have gone so far as to suggest that voluntary constraints be put on research or, horrible dictu, even that the public should have some say in evaluating the risks and benefits emanating from research supported by the public.

These people lack the vision to see what the world would be like without thermonuclear weapons, nerve gases, fast-breeders, smartbombs, aerosol deodorants, synthetic organic pesticides, supersonic aircraft, uppers, downers, plastic bread and the many other things that make life for almost a billion of us so exciting. Could one even consider life without these and similar wonders truly human life?[3]

ACKNOWLEDGEMENTS

I would like to thank Thomas Andrews, Wilfred Beckerman, Hans Bethe, Wernher von Braun, Colin Clark, Buckminster Fuller, Philip Handler, John Maddox, Viscount Pirrie, Dixy Lee Ray, Edward Teller, and Alvin Weinberg, whose thinking on technology has been a constant inspiration to me in the writing of this paper.—P. E.

NOTES

[1] We are fortunate indeed that many veterans of the Manhattan project are among the most sturdy supporters of nuclear power (vide the Bethe statement, Bulletin, March 1975, pp. 4–5). They are the sort of men who can make rational decisions about future risks and benefits, men fully aware of the technological imperatives that must control human destiny.

[2] Those who claim that the Nixon administration would have shown us those limits simply have no grasp of the duration and quality of the AEC's efforts or the numbers of innovators involved. I need hardly point out that Mr. Nixon had no faulty emergency core cooling system, that his administration admitted that things leaked out, and that even Spiro Agnew was never caught swinging around in a faulty fault tree.

[3] Some quibbling anthropologists might claim that, say, the !Kung bushmen or the Eskimos led human lives; but this is, of course, confusion on their part. What !Kung bushman, for instance, has ever had his manhood reinforced by a Mayaguez incident? What Eskimo has ever had the capacity to vaporize one of his enemies 57 times over? Neither group uses deodorants. Anthropologists should sharpen their definitions and be more precise. They could learn a lot from physicists like Freeman Dyson, who, for instance, went to the trouble of determining that the putative author of Our Plundered Planet, Fairfield Osborn, was in fact Harrison Brown writing under a nom de plume.

THE FIVE ESSENTIALS OF MEANINGFUL FULL EMPLOYMENT LEGISLATION

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. HAWKINS. Mr. Speaker, two recent events necessitate a clarification of what many of us long active in the struggle for meaningful full employment legislation mean when we talk about a "full employment bill."

On September 5, 1975, in Sacramento, Calif., President Ford declared:

I know of no acceptable rate of unemployment as long as there is any American who wants a job and cannot find one.

On September 19, 1975, Dr. Arthur Burns, Chairman of the Federal Reserve System, stated:

I embrace the goal of full employment, and I shall suggest ways to achieve it.

Dr. Burns then went on to suggest that the Government be the employer of last resort to guarantee some kind of job to anyone able and willing to work—but at below minimum wages.

Just listening to the flowery rhetoric of the two gentlemen many of our fellow citizens might be deceived and misled into believing that these officials are actually advocating and supporting meaningful full employment. Therefore, before the phrase "full employment" is emasculated and gutted and stripped of all meaning by those who are, in one way or another, in fact opposed to meaningful full employment, I propose to set down as clearly as I can the key essentials of a meaningful full employment bill.

First, a meaningful full employment bill must establish and affirmatively guarantee in direct terms the individual right to a decent job at fair wages for all adult Americans willing and able to work. By this essential element of full employment legislation we mean to reject any mere statement of the declaration of the "right" to a job or some other artistic euphemism. The individual right means that we treat the right to a job as a right attaching to each and every American, not as an abstract condition of joblessness of any percentage of our population hidden in faceless numbers on Government statistical sheets.

The individual right means, too, that an American citizen without a job and desiring one can, if necessary, as a last resort, and after full utilization of other employment channels, present himself or herself at a Government office and be placed on a decent job—private or public—at fair wages and conditions of employment commensurate with that person's capability and potential. As a practical and meaningful step toward achieving this ultimate goal, an interim quantitative objective such as lowering unemployment to 3 percent or less within 2 years should be mandated.

Second, a meaningful full employment bill must provide in explicit terms for the machinery at all necessary levels to implement the established right to a job, including the provision for adequate funding for all levels and instrumentalities of the implementation process. Duties for carrying out the legislation must be directly placed upon specific officials and agencies, together with a clear fixing of standards and responsibilities of those officials and agencies. Thus, when an individual cannot get a job, there will be explicit accountability for that failure.

Third, a meaningful full employment bill must effectively fight inflation, among other means, through putting the Nation to work producing the goods and services that stop normal inflationary pressures, by using appropriate monetary and fiscal policies, and by recognizing the necessity for curtailing the abnormal inflationary pressures stemming from the various types of monopolistic economic practices, including administered prices. Such a bill would thus spell out precise measures to be taken to stop inflation.

Fourth, a meaningful full employment bill must fix the full employment principle as the centerpiece of a total national economic context of full goods-and-services production and full purchasing power in the hands of our citizens, together with an explicit statement of our national priorities, all expressed in direct mandatory language binding by law upon the President and the entire executive branch. Full employment means, as President Truman stated in his final economic report of January 1953, "full utilization of our natural resources, our technology and science, our farms and factories, our business brains, and our labor skills."

The executive branch, including the President and Mr. Greenspan, must be required to throw out their long-term planning for high levels of unemployment into the foreseeable future. The Federal Reserve System and other regulatory agencies must act in concert with these full employment policies, not in opposition to them. Congressional participation—including program and policy involvement, adequate funding, and oversight—must be an integral part of the process.

Fifth, a meaningful full employment bill must begin to operate without delay. The ravages of unemployment are too devastating for the Nation to continue to suffer them for many more months or even years, as the present administration proposes. Next year, or the year after, is too late; action now is needed. And that action must be backed up with specific goals and timetables of implementation, in accord with a previously stated quantitative interim objective such as achieving 3 percent unemployment or less within 2 years.

The above five essentials of a meaningful full employment bill are not exhaustive but are merely designed to begin to give us bearings for constructive action, meaningful dialog, and the debate that is surely to come. If, as many veteran political columnists and observers are predicting, full employment legislation will be the main issue of the upcoming Presidential campaign, we should at least insist that those who use the phrase "full employment" be responsible for its genuine accomplishment.

I submit that anything less than this would be to betray and defraud the American people.

I offer these comments in a spirit of constructive dialog.

CONSUMER AFFAIRS SUBCOMMITTEE SCHEDULES HEARINGS ON CREDIT CARD SURCHARGE LEGISLATION

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. ANNUNZIO. Mr. Speaker, on Thursday, October 23, the Consumer Affairs Subcommittee of the House Committee on Banking, Currency and Housing will hold hearings on legislation to prohibit adding surcharges on consumer credit card purchases.

Although the legislation has not been introduced, it will be on the first legislative day after the Columbus Day recess.

Last year Congress enacted the Fair Credit Billing Act which provided that merchants who honored credit cards could allow cash purchasers a discount. In addition, a discount of 5 percent or less would not have to be disclosed under Truth in Lending requirements.

This position was enacted so as to provide lower costs to customers who chose not to use a credit card. Although many merchants were willing to provide such discounts, they were prevented from doing so because of contract stipulations between the merchants and the credit card companies prohibiting such discounts.

When the Federal Reserve Board published its proposed regulations for the Fair Credit Billing Act—which contained the cash discount provision—the Board also authorized the use of surcharges which would increase the cost of credit card purchases. I protested this action to the Board, pointing out that Congress had not authorized surcharges and the Board was overstepping its authority. The Board subsequently withdrew the proposal, but since that time the Senate has begun holding hearings on this issue to specifically authorize surcharges.

I am opposed to such surcharges. With more than 500 million credit cards in circulation, a surcharge of only a few percent could result in billions of dollars in extra costs to credit card customers. In addition, the surcharge will not result in any lower costs for cash customers.

THE JOHN A. BLATNIK LOCK

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. OBERSTAR. Mr. Speaker, the Nation's fourth seacoast: the St. Lawrence Seaway, the Great Lakes, and their connecting channels, today links the great heartland of the North American Continent with the trade routes of the world.

Once only canoes, manned by Indians and later by the French-Canadian fur-traders, plied the more than 2,300-mile route from what are now the twin ports of Duluth and Superior to Montreal.

Today, ocean-going liners carry U.S. cargoes to ports around the globe.

Thousand-foot ore carriers transport iron ore from the fabled Mesabi Iron Range in Minnesota to the steel mills of our great Midwest industrial centers.

The fourth seacoast was only a dream at the beginning of this century, when men of vision began to urge development of the St. Lawrence Seaway.

But the seaway remained a dream for over 40 years—until one man, a freshman in the Congressional Class of 1946, introduced a bill and, a brief 6 years later, fieldmarshalled the legislation through Congress and into law.

That man was John A. Blatnik, our colleague in the House from 1947 until his retirement in 1975, and chairman of the House Public Works Committee from

1971 through the end of the last Congress.

Hardfought as was the battle for the seaway, it was only the beginning. For the key to the seaway's success was the deepening and widening of the channels connecting the Great Lakes, without which no ocean-going vessels could penetrate the full 2,300 miles to the ports of Lake Superior.

The channel improvements were authorized by Blatnik's Subcommittee on Rivers and Harbors in 1956, the first year he chaired that subcommittee.

One of the most vital links of the entire 2,300-mile Great Lakes/Seaway System is the 1,200-foot lock at Sault Ste. Marie, Mich. Although no 1,000-foot lakers existed, or were even on the drawing boards, when this giant lock was authorized, Blatnik had the foresight to realize that these supercarriers would be needed and, therefore, built.

Blatnik's expertise and legislative craftsmanship steered the enabling legislation for the 1,200-foot lock through this complicated maze to enactment, in the face of skepticism and outspoken opposition by those who believed it would be superfluous.

The lock was opened in 1968. By the early 1970's it had revolutionized the transport of grain and ore on the lakes. Brand-new, 1,000-foot oreboats replaced smaller vessels, and shipyards were busy with commissions to lengthen others to meet the opportunities of this new lock.

That lock, now known as the Poe Lock, was named for a Corps of Engineers officer, Orlando Poe, who lived 100 years ago, and who had no connection with the conception or authorization of the 7-year-old lock that bears his name.

Mr. Speaker, the locks and facilities of the fourth seacoast bear the names of men who, historically, made a contribution to the system, but who have no geographical connection with the facility named for them. History, not geography, has been the guiding principle in commemorating their vision and achievements.

But the one man who really got the St. Lawrence Seaway enacted; who made the lakes and seaway the Nation's fourth seacoast in fact, and then in law; who made the system navigable to today's super-lakers; and who authorized the giant lock at the Soo, is nowhere recognized.

The bill I introduce today would rectify this situation, by naming this lock, as a permanent monument to our former colleague, the John A. Blatnik lock.

DEBBIE REYNOLDS HELPS ESTABLISH THALIANS' COMMUNITY MENTAL HEALTH CENTER

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. REES. Mr. Speaker, we are all aware of the great contribution the renowned Miss Debbie Reynolds has made during her 25-year career as an actress and entertainer for the benefit of millions of Americans and people throughout the world. I wish to bring to the attention of this body her contribution as an outstanding leader, president and now chairman of the Thalians, a group of civic-minded people who have devoted their time and energies for the past two decades to care for and treat emotionally disturbed children. As a result of their dedicated efforts, the new Thalians' Community Mental Health Center was built at the nonsectarian Cedars-Sinai Medical Center in Los Angeles. She has led this outstanding group of dedicated people to raise over $2.5 million.

In my opinion, a young, talented woman who has served in this dual purpose of entertainment and civic leadership should be an inspiration to many other Americans in years to come.

I am very proud to present Miss Debbie Reynolds to you as deserving of the highest commendations of this legislative body.

FEDERAL SUPPORT OF THE ARTS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. DRINAN. Mr. Speaker, the need for continued Federal support of the arts is imperative if we are to promote and preserve our cultural heritage. Past appropriations to the arts have been substantial, but more money will be needed in coming years to promote and maintain the successful work which the National Endowment for the Arts has done during its 10-year existence.

An editorial in the September 30 Christian Science Monitor persuasively argued that appropriations for the arts are not a luxury. With the creation of the National Endowment for the Arts and Humanities 10 years ago, opportunities were created so that all Americans could benefit from American art and culture and not just those few who were able to afford it.

Two hundredths of 1 percent of our national budget is presently being spent on the arts. As the Christian Science Monitor editorial points out, we should surely spend no less.

I commend this excellent editorial to my colleagues:

TWO ONE-HUNDREDTHS OF 1 PERCENT FOR THE ARTS?

The National Endowment for the Arts celebrated its 10th anniversary yesterday in the midst of artistic cutbacks around the country that make its funding—and its generation of matching funds—all the more necessary. As state and city budgets are tightened in the inflation-recession squeeze, museum hours get shortened and anything that smacks of luxury is challenged. In Massachusetts, for example, with all its cultural heritage, struggling arts organizations are rightly concerned because of a threatened two-thirds cut in the state arts council's budget.

But the arts and the whole quality of life they exemplify are not a luxury. Salty Harry Truman in the current play and movie about him is shown taking time to emphasize the importance of beauty to the human spirit—acknowledging how it refreshed him for the affairs of state. So do all members of society need the enrichment of the arts. When they turn to these resources, the resources must be there, not reserved for the elite, not allowed to wither to the disadvantage of all.

The United States took most of its 200 years to recognize the need for federal support of the nation's artistic enterprise. But the commitment to the arts endowment over the past decade has grown from $2.5 million to $74 million this year (with similar amounts for the companion National Endowment for the Humanities). For the coming year President Ford is at least going in the right direction by asking for an increase to $82 million (though $126 million was authorized under the last legislation). Surely no less should be appropriated in a budget of $375 billion.

For the arts endowment's 10 years have provided, despite some merited criticism, what chairman Nancy Hanks calls the "confirmation of an idea"—that federal support of the arts is an essential part of the system. Since it still amounts to less than 50 cents per capita, it is clearly not displacing private support and commercial maintenance of the arts. Indeed, many business patrons of the arts are not yet in recessionary retreat.

What the arts endowment can do—and has been doing—is to use its leverage to pry funding from other sources. As Miss Hanks has said, "Our most fundamental purpose is to draw national attention to major problems and opportunities in the arts, and then use our limited funds to mobilize non-federal resources to deal with them."

The needs she sees now range from better use of the potential of broadcasting for wide dissemination of the arts—to helping the little magazines in their task of discovering literary talent.

Are the arts worth two-hundredths of 1 percent of the national budget? That's all the President is asking for.

CULTIVATE-A-LOT

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mrs. SPELLMAN. Mr. Speaker, several years ago in Prince Georges County, we instituted a program that, for a nominal fee, provided garden plots from unused county land to families who wanted to grow their own produce. The cultivate-a-lot program has met with tremendous acceptance by county residents to the point that yearly reservations for plots must be made well in advance of the planting season. The county provides the lot and the initial plowing for a modest $10 fee; the would-be gardener prepares the seed bed, cultivates the garden, weeds the plot, and harvests the crop.

I wish that my colleagues could come out to Prince Georges County to see this program in action; to see the people working on their plots. So many families in our urbanized society do not have access to arable land, yet want to cultivate a garden. The Prince Georges County cultivate-a-lot program fills that need with a minimum cost to the government and with a maximum satisfaction to the participants.

It is the success of the Prince Georges County program that prompts me to introduce legislation to establish a similar cultivate-a-lot program on the Federal level. My bill amends title 16 of the United States Code by adding a new subsection (i) to section 406L–1.

Such a program must be administered by the agency that has jurisdiction over most of the land owned by the U.S. Gov-

ernment. Under my bill, the Secretary of the Interior will establish a cultivate-a-lot program through the Bureau of Outdoor Recreation, to lease lots of up to 1,000 square feet of arable U.S. land that is not directly necessary to the on-going activities of the Government and its agencies.

Outdoor recreation programs were created to assure all Americans adequate outdoor recreation resources after the Congress determined that it was desirable for the Government to "conserve, develop, and utilize such resources for the benefit and enjoyment of the American people." I can think of no better way to fulfill this goal than to utilize U.S. land for such a program. In these days of high food prices, it would be beneficial to have such a program available for people who want to grow their own produce, yet do not have access to the land. The program will, through the lease fees paid by the gardeners, be essentially self-supporting.

I urge my colleagues to join me in sponsoring this bill so that it can receive immediate consideration. Initiation of this low-cost program in time for the spring planting season of 1976 would be a most fitting present to this country and its people on the occasion of the Bicentennial.

At this point, Mr. Speaker, I include the text of my bill:

H.R. 10205

A bill to establish as part of the Outdoor Recreation Programs a program to permit certain residents to cultivate gardens on dormant Federal lands

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act of May 28, 1963 (77 Stat. 49), is amended by adding at the end thereof the following new subsection:

"(i) Cultivate-a-Lot Program.—Establish a program wherein citizens or permanent residents of the United States are permitted through lease or other arrangement to cultivate in plots no larger than 1,000 square feet, arable land owned by the United States and determined by the Secretary of the Interior not to be directly necessary to the on-going activities of any Federal agency or instrumentality."

CAN CONRAIL SUCCEED?

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. SHUSTER. Mr. Speaker, under the provisions of the Regional Rail Reorganization Act of 1973 the USRA final system plan will automatically go into effect within a month unless Congress acts to disapprove. I support ConRail and am deeply concerned that this body is not yet sufficiently informed of the plan to pass judgment on it. A package of amendments to the act are required and it is essential that we act wisely and with dispatch. Toward that goal, I am inserting the text of a speech recently delivered by Arthur D. Lewis, Chairman of USRA. I commend it to my colleagues:

REMARKS BY ARTHUR D. LEWIS

I'm very flattered to have been chosen as the first luncheon speaker for this important conference, although, looking over your program for the morning session, I know that I am following some pretty tough acts. I'm referring not only to the participants from other organizations and to Owen Clark's able moderating, but also to my colleagues from the Railway Association. John Terry can always be counted on for a good presentation, and it will come as no surprise to you that we consider Jim Hagen's ability to sell a "bill of goods" to be absolutely outstanding. He sold us the "Plan."

Since July 26 when the last midnight oil had been burned at the Association and our Final System Plan was delivered to Congress, we have had an opportunity to stand back from the Plan itself and reflect upon it. The demands of Congressional appearances, together with the responsibility to consider evaluations from other sources, have dictated a fairly thorough review by ourselves of our conclusions and recommendations.

Thus, today, I have some confidence in answering the question posed as the theme of this conference, that is: "How ConRail is Going to Work." My thought is that, *in time,* it will work *very well.*

I continue to be confident in the research and the judgments of both the professional staff of the Association and the consulting firms whose expertise we called upon during our short and compressed planning period—all deeply experienced in rail management and finance—and I am also confident in the collective judgment of our hardworking Board itself.

Because the challenge that confronted us was comprehensive as well as complex, some complexity is evident in the Final System Plan. We are not surprised that the complexity has brought disagreement and criticism from sources whose knowledge of the detailed analytical work is based only on the document which was published. Even though the System Plan itself constituted two thick volumes, it still represents a minute distillation of the work completed during the last eighteen months.

The principal contentions of our critics are (1) that we have undervalued the bankrupt properties, (2) overestimated the earnings potential of ConRail and (3) underestimated the amount of money ConRail will need to get in the black. Those are some pretty sweeping criticisms. But to some extent they were to be expected because the whole process is programmed for controversy of this kind.

Let's deal with the first of these, i.e., the valuation of property. In so doing, we should know that the basic complaints have come from the Trustees of the bankrupt estates involved and/or the creditors and stockholders of those bankrupt railroads.

We first must clearly understand what we are dealing with. The valuation of rail property shown in the Plan is the estimated *current value* of these properties if the Trustees of the estates were granted permission to discontinue operation and sell their properties to whomever they wanted to sell it to and for the very best price they could get for it. It also reflects the net cost to them to dispose of these properties and this is quite high, reflecting the diversity and scope of the property involved. To put this into perspective, look at these figures. The *net book value* of all rail property of all seven railroads in bankruptcy totals 4.45 billion dollars—but in a terribly depleted condition, *as we all know.* We have developed a liquidation plan which causes us to believe that over the next twenty-five years the bankrupt estates could sell most of this property for a total of about $3.5 billion. Some of it they can never sell while other parts can be sold only for scrap at very low prices, hardly worth the effort to accumulate it and transport it to market.

We have forecast that the cost of selling these thousands of miles of rail line, hundreds of millions of ties, millions of tons of steel scrap, of tearing down bridges, plugging tunnels and the like would cost about $1.8 billion during that twenty-five year period—leaving about $1.7 billion for the stockholder and the creditors of the estates. However, the law states that we must estimate the current value of this $1.7 billion flow of cash at the time of conveyance of property, about March 1 next year. For example, what we had to do was determine what a dollar which might be received by the estates in 1985 for sale of land or other assets would be worth today. It is *not* the same; it is less. Looking at it in another way, if one felt he could sell property for a given sum ten years hence, how much less would he be willing to take today for that same property. One would accept a substantial discount, and the degree of discount would include risk that the prospect of sale might not be fulfilled.

Thus, we had to determine a reasonable discount of that net flow of $1.7 billion in cash over the twenty-five-year period—and our discount rates reduced it to a *current value* of $621.0 million. We think that is the current value of the net proceeds which would come from a decision to begin liquidation of the rail properties today.

The question then comes, is this the *real* measure of the value of the property that is to remain in rail operation. The answer is, of course, "no." The real value of that property is its *ability to earn money as a railroad.* It is the *capitalization of earnings* of that property which determines its real worth. To properly compensate the stockholders and creditors of the bankrupt estates for the use of that property, we have given them 100 percent of the common stock of the company so that these earnings, whatever they may be, belongs 100 percent to them, including the very real potential for earnings substantially in excess of our forecast. It should be noted, however, that those earnings cannot be realized without heavy investment in the rehabilitation of these badly deteriorated properties, with capital provided on highly favorable terms by the government. The actual cost of this essential capital we see as a proper prior claim on ConRail's earnings.

Of course, taking into consideration the trend of the stock market, and other variables, we could not with certainty say what the stock of ConRail will sell for—and we could not be certain that ConRail would have sufficient earnings to give value to its stock under any market conditions. Thus, we then become concerned with what value the estates should receive for their property if ConRail stock did not have value or if the value were minimal; in other words, if ConRail could not be reorganized successfully; or if, in legal terms, we did not have an "income based reorganization." We believe that legal precedent clearly states that, if the property cannot be operated at a profit for its owners, then what they could get if they liquidated the firm will constitute the fair and just consideration for its owners. Thus, we believe, that "net liquidation value" we have described in the Plan is the fair and equitable value they should receive.

To make certain that the creditors and stockholders receive that "constitutional minimum" the Association recommended the creation of the Certificate of Value guaranteed by the full faith and credit of the U.S. Government to make up any shortfall that might exist if ConRail securities fail to have a market value equal to that constitutional minimum.

The creditors say this isn't enough. In effect, they say, "We have given you assembled property with bridges and buildings that will not be torn down; ties and rail that won't be ripped up; and tunnels that will not be plugged; thus, you owe us 'assemblage values', or cost of reproduction new, less depreciation, or today's net book value."

We recognize the properties will not be sold off, ripped up, torn down, etc. Those properties designated to ConRail *will be operated as an ongoing rail system* by a private, for-profit corporation. And, it is for *that reason* that we hold that the intrinsic value

of that property is determined by its earnings value, and that a capitalization of these earnings determines the value of the property.

And, that gets us back to the second area of controversy surrounding the Plan—is it too optimistic in its financial projection? In this regard, however, I would like to emphasize again that the earnings we have forecast and the value derived therefrom, are realized only after the general taxpayer has put nearly $2.0 billion in bonds and preferred stock in the operation and has granted subsidies in excess of $500.0 million to current and future operation—no little sum to enhance the earnings capability of the dilapidated investment of the stockholders and creditors.

And, again, based on a reconsideration of our work, and with this financing assistance, I think those rail properties can be operated at profit sufficient to create securities distributed to the estates with values in excess of any constitutional minimum value.

Before I launch into a more detailed statement of the reasons I believe as I do, I'd like to emphasize one point—and that is that the United States Railway Association has not felt that it has had any specific ax to grind. Our goal has been to do what we could to optimize the profitability of these properties with the resources available. We did not try to force any answers. We would rather have returned to Congress and reported that the job it gave us could not be done, rather than to put something together we felt would not work. I am not saying that, in the inherently uncertain world of economic and financial forecasting, that we are infallible. I simply want to emphasize that we had no partisan interest in, nor preconceived answer to the solution and conclusions we developed.

In setting about our job, it readily became apparent that losses on the bankrupt carriers were coming from several sources other than line haul freight operation. The two largest cash drains came from certain passenger services and a large number of branch lines with very little traffic. Early on it became apparent that rail freight services were not sufficiently profitable that they could continue to subsidize losing operations which might be necessary to serve other social purposes than running a profitable rail freight service.

We recommend an elimination of cross subsidies and the adoption of a policy that the governments involved (Federal, state and local) pay the cost of losing operations if they wanted them to be operated. We have excluded such losses in the financial statement of the Final System Plan. We believe that both the Administration and Congress will agree to this general principle and recognize that we cannot have a private enterprise solution in reorganizing these bankrupt carriers if we try to force ConRail to carry these losses. To show you the importance of this element in affecting earnings, we estimate that in 1976 the combined losses from unprofitable passenger services (both AMTRAK and commuter) and branch lines approached $100.0 million. If ConRail were forced to continue those losses throughout the 1976–1985 period its cash requirements would rise by $2.3 billion more than shown in the Plan. There is no way ConRail could accept that cash drain and the additional losses from operations involved and succeed as a private sector company.

With the elimination of the losses from passenger services and the large number of unprofitable branch lines operated by these bankrupts, it becomes meaningful to compare the financial performance of the bankrupt railroads with other railroads in the industry. On the basis of this comparison our forecast of ConRail viability by 1985 appears to be quite reasonable. For example, the critical ratio of ConRail operating expenses as a percent of revenue is estimated to decline steadily from 92.6 percent in 1976 to 70.7 percent in 1985. That compares to an average for ten large rail systems in 1973 of 69.7 percent—not an unreasonable expectation in the tenth year, after the expenditure of $6.0 billion on roadway, property and equipment improvements, a new management, the elimination of passenger and branch line losses, consolidation of yards and facilities to reduce costs and the introduction of many important systems to improve operating efficiency. I don't think this is an unreasonable projection. It assumes an extensive rationalization of duplicated properties during this period; it seems a carefully calculated improvement in operating costs due to the rehabilitation program with each dollar of rehabilitation cost justified by improvements in operating costs. It assumes a substantial but not radical improvement in car utilization by the use of modern management techniques which are available. It assumes only a small part of the improvement in yards which can be realized by a carefully planned capital expenditure program and by improved management practices in the yards. (Incidentally, we have looked at work rules as presently administered by the Penn Central and believe that a very significant portion of their particular problem of manpower utilization in the yards is in the daily administration of their contracts rather than in the specific limitations to worker productivity written in the contracts.) We have projected a substantial improvement in loadings per car reflecting the higher capacity of cars being added to the fleet as the older cars are retired, and, as you can imagine, a large part of the cars owned by the bankrupts today should be retired soon. We have also programmed many of the original consolidations of facilities which were thought to justify the merger of the Pennsylvania Railroad and the New York Central but which were never implemented due to lack of cash. Actually, we have been very conservative in forecasting the net benefits of improvements in operating efficiencies. We forecast an improvement in earnings of $578.0 million by 1985 and of that only $299.0 million is due to gains in operating efficiencies and changes in the traffic mix and volume. This is a very conservative figure considering the benefits that can flow from programs just mentioned, as well as to a new profit-oriented management dedicated solely to making the railroad succeed.

And, now I'd like to talk about the latter element, the new management, beginning with Ed Jordan, recently joined by Dick Spence. I think we are well on our way to developing an outstanding new management team and in creating a new management environment in the bankrupts (particularly the Penn Central.) This will have a direct positive impact. This statement should not be construed as my being critical of the present management of the Penn Central. I am not. With the constraints of a bankrupt company, the lack of cash, the indefiniteness of a future, with a Trusteeship with divided interests between rail service and preservation of assets, rail management has had an impossible job—and I lift my hat to Jervis Langdon who has held that company together under conditions impossible for an outsider to imagine.

But, the new management will be in sharp contrast to the management of the rail system when it went into bankruptcy—a new management capable of implementing the most sophisticated management systems and one dedicated to rail service only. No attempt will be made to disinvest from rail service, but rather a direct attempt will be made to show that a successful Phoenix can arise from the ashes of these failed companies. I am proud of the selections of executives we have made so far and I am sure you will begin to see more appointed of the same quality—and a substantial number of these will come from the bankrupt carriers themselves—but newly invigorated and stimulated by the possibilities of a resurgent new company. Mark my words, I think that in three years that ConRail will be recognized as having the best management in the field of rail operations—not as a reflection against other rail management, but a reflection of the drawing power of the challenge of ConRail's rebirth.

The basic question is—can ConRail achieve the degree of profitability about equal to the average large railroad system after ten years operation under this new management; after freeing it of debilitating cross subsidies, after major capital expenditures made to improve efficiencies and the consolidations of facilities?—*I think it can.*

But, what I am concerned about also is what will be the rate of profit of the *average rail carrier* ten years hence. If it is no better than today, it will not be very profitable and thus, ConRail will be only marginal. To me, this is the critical problem both from the standpoint of the stockholders and creditors of the bankrupt estates as well as the government itself.

The problems of ConRail's profitability in the future will be the problems of the profitability of the industry as a whole. We think ConRail will be as good as the average, but no better. But this country needs an industry which, on an average, is more profitable than the rail industry is today. For many years it has been at or near the bottom of all U.S. industries in rate of return on investment.

The key fact is that over the last twenty years, the industry as a whole has failed to keep abreast of its developing capital needs. What capital expenditures it has made have come either (1) out of working capital (and for the industry as a whole it is now in a deficit working capital position), (2) by increasingly expensive leases and conditional sales agreements in acquisition of rolling stock, and (3) by deferring less critical maintenance of fixed plant and track when feasible.

Not only has the industry reached a point at which it cannot fully meet its current needs, it now faces a decade of capital expenditures and track and tie replacement unprecedented in its history.

And, unless basic and fundamental changes are made in the industry and in public support for the industry, it will fall even further behind in meeting its capital and maintenance requirements in the future. Increasingly, it will fail to provide essential transportation services—thus, for the industry and for ConRail, I need to say these things:

1. The industry, itself, must accelerate its efforts to improve productivity, and the strong roads as well as the weak, must recognize they stand to gain by industry programs which benefit all lines.

2. Rail labor, too, must recognize that its future is largely contingent on a sharp improvement in railroad efficiency—and it cannot rely on radical improvements in rail technology to bring that about. It, too, must increase its own productivity—and it should share in the benefits of increased productivity.

3. The regulatory philosophies in this country must change. They must be based on the present competitive conditions in the industry and not on the past. The common carrier must be given greater freedom to compete in the private sector and contract carriage of freight. Rates must reflect costs both inflationary as well as structural. Flexibility in competition, rate making and service must be the basic goal with protection for the public when lack of competition permits excesses to occur.

4. And public support policies must change—support for the various modes must be brought into balance. We should clearly determine the extent to which each mode is aided by public policy—to which it is subsidized either directly or indirectly in the administration of expenditures for highways, inland waterways and airways, and in tax policies. Each mode should be forced to com-

pensate the body politic fully for services used, including capital charges for the use of public capital. Either that, or all forms of transportation should be aided in an equitable manner. Certainly, we should stop the discrimination in public support which adversely affects the most energy efficient and the most environmentally compatible mode, the railroads.

5. And lastly, we need to integrate the planning for modal development. We have long passed the point when we can develop independently all modes of transportation without evaluating the interrelated needs for service. We cannot afford the waste of natural resources which indiscriminate development of all modes brings about.

Now, the above are the things we must do if rail transportation as an industry is to meet the developing needs of our society. Without direct and positive steps we will see the rail industry continue to lose market share at a time when energy and environmental factors should stimulate its growth. In that case, ConRail will suffer along with the industry.

On the other hand, we can step up to the basic problems of the industry and create conditions in which it will flourish. *ConRail then will flourish, too.* And this in large part will provide the answer as to whether the financing recommended for ConRail will be sufficient in the long run. The answer really depends on the exercise of public policy from this point forth and the degree to which it continues to starve the industry for funds or alternatively creates conditions which provide an adequate cash flow to make needed capital investments.

As we said, both in our Preliminary System Plan and in the Final System Plan, "the Association can only plan a system and recommend methods of financial assistance. . . . Others will have to share in the creation of an environment favorable to an economically viable rail system for the Nation."

We also went on to say that, "the Association believes ConRail can succeed as a viable private enterprise and is optimistic that the industry itself will remain in private operation. The public attitude toward the rail industry is changing from one of hostility or indifference to one of encouragement. With the resurgent use of coal to supply more and more of the Nation's energy needs, rail transportation will become even more important. With society concerned about the fragility of the environment, excessive consumption of petroleum and use of additional land for highway construction, greater recognition will be given to the railroad as a fuel efficient, land-conserving and low-polluting method of transportation.

"Thus, the Association's optimism for ConRail's future is not based solely on government support of new management. There is a changing public attitude toward regulatory policies, energy and the environment, a shift of attitudes that portend a fundamental turning point in the historical relationship between the Nation and its railroads.

"ConRail can succeed. The Region can have an adequate rail system. The Nation can have the benefit of a rail industry which, operating in the private sector, serves its full and efficient role in the national transportation system. The Final System Plan is a single, but highly significant step toward achieving these goals for the benefit of the citizens of this Nation."

PERSONAL ANNOUNCEMENT

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. EDGAR. Mr. Speaker, as a result of an unavoidable out-of-town commitment, I was not present when the House of Representatives voted on H.R. 9500, the Construction Industry Stabilization Act of 1975. I was a cosponsor of an identical bill. Had I been present, I would have voted in favor of passage.

While preserving the structure of unimpeded collective bargaining, H.R. 9500 provides a mechanism for anticipating and settling disputes in the construction industry with a minimum of Government interference. The impact of this bill will be to stabilize a fragmented industry, and help avoid ugly labor disputes which ultimately are costly to labor, management, and the consumer.

TO APPROVE THE PROPOSAL OF THE EARLY WARNING SYSTEM IN THE SINAI

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. JONES of Tennessee. Mr. Speaker, on Wednesday, this body passed House Joint Resolution 683, to approve the implementation of the U.S. proposal for an early warning system in the Sinai.

While I support our efforts aimed at bringing peace to the strife torn Middle East, I opposed this legislation as the incorrect way in going about such a settlement. First, it again places the well-being of American technicians in the same precarious position that got us involved in a land war in Southeast Asia and secondly, recent newspaper reports indicate that our Secretary of State believes that the approval of this resolution also commits, firmly, the U.S. pledge of billions of dollars of economic and military aid to both sides of that conflict.

I have long been an opponent of exorbitant foreign aid and I am certain that such aid in this case will only serve to strengthen the tension between countries who are armed to the teeth with our military hardware.

While the resolution states that our action yesterday had no effect on other proposals that are connected with the early warning system in the Sinai, I find it quite alarming that our Secretary of State would make public a statement that indicates that the approval of this resolution, in effect, approves the other portions of the agreement with which many Members of this body may not agree.

And, I think that there are still yet other questions in this matter that have not yet been dealt with. So far, the accords affect only the Egyptians and the Israelis. What will prevent the Arab nations from posing a threat to the safety of those "volunteers" who man these outposts and if they should be endangered through actions by parties other than the Israelis and the Egyptians, who will get them out, as called for in the agreement?

I am convinced that there are too many questions that have been left unanswered or answered only in part that could result in a greater involvement than we intended when this resolution passed.

ONE CITIZEN'S FAITH IN FREEDOM

HON. PAUL S. SARBANES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. SARBANES. Mr. Speaker, the Monorah Lodge of B'nai B'rith in Baltimore recently celebrated its 60th anniversary by sponsoring a Bicentennial essay contest, thereby continuing its long tradition of civic, educational, philanthropic and patriotic activities benefiting the entire Baltimore community. It was most appropriate that the lodge should have chosen as the essay topic "U.S.A. Flag: Faith in Freedom"—appropriate to our Nation's approaching Bicentennial and to the fact that the lodge itself was founded on Flag Day, 1915.

It is also fitting that the prize-winning essay should have been written by Lillian Lee Kim. Mrs. Kim is well-known and loved in Baltimore where she is a leader in the Chinese community and an outstanding and dedicated public servant. Her prize-winning essay expresses her feelings about our flag and our country in a very moving and original way.

The essay follows:

U.S.A. FLAG: FAITH IN FREEDOM

The colors of our flag represent Faith in Freedom. White (purity) symbolizes the land of the free where the world's oppressed and unfortunate have always found a haven of rest. Now, as always, her gates are open to the thousands of refugees and the homeless. Red (happiness and good fortune) speak of the courage of the American people who have always and will continue to face danger, to stand for, strive for, and fight for freedom and a better life. The blue in the field of stars represent loyalty . . . the loyalty of the American people who have stood by their flag and their country through adversities and challenges, responding to America's call to serve in combat, on peace missions, and wherever and whenever needed to preserve freedom.

Our flag has always filled me with pride and thanksgiving, yet, never before has it moved me as deeply as it did the first time that I saw the replica of our flag of 1814, handmade by Baltimore women (honoring the Sesquicentennial of the defense of Baltimore), being reverently unfolded by the Color Guard at an Oriole Opening Game. As the stirring words of our national anthem filled the air, my eyes were drawn from the fifteen-star flag on the field to the majestic symbol of freedom, its blue field covered with fifty stars, proudly waving in the breeze, representative of a nation whose people represented every creed, color, and race; of varied backgrounds and cultures. Each star, representing a state, spoke of the foresight, the strength, and the courage of the pioneers who had travelled westward, southward, and northward to conquer the wilderness, working together towards statehood for their new home.

Today, as we stand on the threshold of our Bicentennial Anniversary, our flag, born during the early years of our struggle for freedom, represents not only the Declaration of Independence; unending efforts for peace and good will among all nations; a haven of rest for the oppressed; a land of freedom and opportunity but she symbolizes protection for the weak; relief for the suffering; tolerance towards people of all creeds and races, and equality and opportunity for all. She tells of the achievements, principles and goals of America. She represents our dreams and hopes. Above all, to the world's oppressed, her Stars and Stripes represent

Faith in Freedom. She pleads with us not to turn our backs but to come forth; stand up for her and for our country, and be counted as worthwhile citizens. Today, our flag flies over fifty states. The domain over which she waves has expanded until the sun on her flying never sets.

God willing, may the Flag of the United States of America, the most beautiful flag in the world, always wave, proudly, majestically, and warmly amidst the clouds and blue skies. May she always represent freedom; freedom in its heroic and historic past; groping present, and a future made great by her people. Our flag and our country is the last and best hope of the world. Long may she fly!

THE EMERGENCY FLOOD CONTROL ACCELERATION ACT OF 1975

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. RINALDO. Mr. Speaker, I am today introducing a bill entitled the Emergency Flood Control Acceleration Act of 1975. This bill has a twofold purpose: To expedite the initiation and completion of needed flood control projects across the Nation, and to aid one of this country's most recession-afflicted industries, the construction industry.

According to data furnished by the U.S. Army Corps of Engineers, an average flood control project takes about 11 years to complete. In some instances, projects have been completed in under 9 years, but in far more instances, projects consume up to 18 years. To my mind, this is far too long. If the safety of a community is imperiled by potential flooding, it needs protection as soon as possible. Eighteen years later, that protection may be too late.

A graphic illustration may be found in my own district in New Jersey, some of which covers a flood plain area. There have been several flood control projects underway in my district for many years. None of them, however, was completed in time to save the district from the disastrous floods of recent years, including those which resulted from this month's extraordinarily heavy rainfall. And yet, these projects were requested years and years ago.

Why, after all this time, should the people of my district still be in danger of losing life and property from floods? One of the reasons, Mr. Speaker, why flood control projects take so long to complete is the myriad of procedural requirements adhered to by the Corps of Engineers, many of which are internally developed working arrangements. Some of these requirements are necessary, such as environmental impact statements and the like, but others are merely time-consuming and superfluous, with approvals of interim reports required on every stage of each project.

My bill proposes that these latter requirements be reduced or eliminated wherever possible, in order to speed up the initiation and completion of needed flood control projects. In so doing, badly needed assistance will be extended to the Nation's construction industry. This industry, as we are all aware, has been among the hardest hit by the recession in terms of unemployment. By eliminating unnecessary procedural requirements, actual project construction can begin much sooner, and unemployment among construction workers will be alleviated.

Mr. Speaker, I think it is unnecessary to belabor the timeliness and importance of this bill.

I urge its support.

REMARKS ON THE INTRODUCTION OF A BILL REQUIRING PRESIDENTIAL REPORTS TO CONGRESS ON AGENTS' COMMISSIONS FOR MUNITIONS SALES

HON. ROBERT N. C. NIX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. NIX. Mr. Speaker, today I have introduced a bill on behalf of the membership of the International Economic Policy Subcommittee of the House; that is, Mr. WHALEN, Mr. HAMILTON, Mr. SOLARZ, Mr. BIESTER, and myself as chairman. We have just completed 7 days of hearings on the response of Federal agencies to the problem of corporate bribery of foreign officials.

THE PURPOSE

The purpose of this legislation is to disclose the identity of munitions middlemen or sales agents and the fees they receive for acting as brokers in foreign military sales transactions. The fees paid to such middlemen are the most common source of bribes of foreign officials. Northrop Aircraft, for example, by their own admission, bribed two Saudi Arabian generals with a payment of $450,000 through a sales agent.

The bill would merely add two items to two reports already filed by the President with the Foreign Affairs Committees of the Congress.

THE LANGUAGE

Section 1 of the bill amends section 36(a) of the Foreign Military Sales Act, 22 U.S.C. 2776, by inserting new language in subsection (a) in the second sentence, by striking the words "and (F)" and inserting in lieu thereof:

(F) the name of any sales agent or other person receiving any fee or commission in conjunction with the sale to such foreign country or international organization of such defense article or service (other than a person who is a bona fide employee of the manufacturer of such defense article or, in the case of a defense service to be furnished by a private contractor pursuant to a contract with the United States, of such contractor) and (G):

Section 2 of the bill amends section 414(e) Munitions Control of the Mutual Security Act of 1954, as amended (22 U.S.C. 1934), by adding a paragraph 5:

(5) the name of any sales agent or other person receiving any fee or commission in conjunction with the sale for export of such items (other than a person who is a bona fide employee of the manufacturer of such items), and the amount of such fee or commission.

THE POLICY JUSTIFICATION

The policy reason for introducing this legislation is the need to protect the interests of American investors and financial institutions from the results of secret funding for the purpose of bribery. One of the chief results of such practices is the improper recording of corporate assets and liabilities.

In addition, the American people have an interest in preventing a repetition of illegal corporate campaign contributions which in 1972 were expended from secret funds maintained for payments to foreign officials. It was thought that such practices by overseas subsidiaries of corporations were beyond the effective enforcement of U.S. Government regulatory policy. These activities would not have come to light without the Watergate investigations.

The major problem in the matter of the number and amount of bribes paid to foreign officials is in the sale of munitions. Bribery of foreign officials is often accomplished through the mechanism of paying foreign sales agents exorbitant commissions. This generally gives the exporter the opportunity to deny knowledge of the sales agents' activities and spending.

Northrop Aviation has admitted paying $450,000 in bribes to two Saudi Arabian generals through a sales agent, Mr. Adnan Khashoggi. Mr. Khashoggi had an agent's contract with Northrop amounting to $57 million. He also had been paid $106 million by the Lockheed Corp. for similar services as a sales agent. It is this kind of information that regulatory agencies such as the Securities and Exchange Commission should be able to obtain on a regular basis. It is the kind of information that the public and Congress should have in order to determine whether or not the President is controlling the export and import of arms in the furtherance of world peace under the terms of 22 U.S.C. 1934, the Munitions Control Act.

JUSTICE DELAYED IS JUSTICE DENIED

The Securities and Exchange Commission has been refused the voluntary release of information by the Lockheed Corp. as the identity and specific amounts of money spent by the corporation on a 5-year program of admitted bribery amounting to at least a minimum of $22 million. The admission that payments of this kind had been made to foreign officials came about as the result of the refusal of a financial consultant to Lockheed to certify their books as being correct to the Emergency Loan Guarantee Board, this past May. The Board, created by Congress in 1971 to prevent Lockheed's bankruptcy in that year, has since then guaranteed $195 million in loans to Lockheed, without the knowledge of this extensive campaign of bribery. What is more, Lockheed improperly has taken tax deductions for this amount as if it were a normal business expense.

In refusing the request of the Securities and Exchange Commission for specific facts on this matter, Lockheed knows that, while the Commission has extensive statutory powers, it must rely on lengthy litigation to obtain evidence of this kind.

The legislation presented today would solve this issue in the future in that the regular reports presented to Congress by

the President, would be furnished in a timely and regular way. The listing of agent's identity and commissions for export license over $100,000 for items on the U.S. munitions list and each letter of offer to sell military articles or services subject to the Foreign Military Sales Act, over $25 million in value would present a public record for the first time of the activity of arms middlemen.

CONCLUSION

Securities and Exchange Commissioner Loomis testified on September 30 this year before our subcommittee. He said that one reason offered by Lockheed for refusing information on bribery requested by the Commission, was that this was a matter of congressional concern.

We accept that challenge today.

If this bill becomes law, we will know who the middlemen in the arms trade are. We will know what they are paid.

The American people will be better able to judge whether the President and Congress are doing what is necessary to control the munitions traffic. I hope that the House will adopt this legislation.

The Military Sales Act and the Mutual Security Act of 1954 will read as follows if this legislation is enacted:

CHAPTER 2—Foreign Military Sales Authorizations

SEC. 36. REPORTS ON COMMERCIAL AND GOVERNMENTAL MILITARY EXPORTS.—

(a) The President shall submit to the Speaker of the House of Representatives and to the Chairman of Foreign Relations of the Senate quarterly reports containing—

(1) a listing of all letters of offer to sell any defense articles or services under this Act, if such offer had not been accepted or cancelled;

(2) a cumulative listing of all such letters of offer to sell that have been accepted during the fiscal year in which such report is submitted;

(3) the cumulative dollar amounts, by foreign country and international organization, of credit sales under section 23 and guaranty agreements under section 24 made before the submission of such quarterly report and during the fiscal year in which such report is submitted;

(4) projections of the cumulative dollar amounts, by foreign country and international organization, of credit sales under section 23 and guaranty agreements under section 24 to be made in the quarter of the fiscal year immediately following the quarter for which such report is submitted.

For each letter of offer to sell under paragraphs (1) and (2), the report shall specify (A) the foreign country or international organization to which the defense article or service is offered,

(B) the dollar amount of the offer to sell under paragraph (1) or of the completed sale under paragraph (2), (C) a brief description of the defense article or service offered, (D) the United States armed forces which is making the offer to sell, (E) the date of such offer, (F) the name of any sales agent or other person receiving any fee or commission in conjunction with the sale to such foreign country or international organization of such defense article or service (other than a person who is a bona fide employee of the manufacturer of such defense article or, in the case of a defense service to be furnished by a private contractor pursuant to a contract with the United States, of such contractor).

THE MUTUAL SECURITY ACT OF 1954, AS AMENDED

SEC. 414. MUNITIONS CONTROL.—

(e) Licenses issued for the export of articles on the United States Munitions List in excess of $100,000 shall be reported promptly to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, which report shall contain—

(1) the items to be exported under the license;

(2) the quantity of each item to be furnished;

(3) the name and address of the consignee and of the ultimate user of each such item; and

(4) an injunction whenever appropriate, concerning the necessity to protect the confidentiality of the information provided.

(5) the name of any sales agent or other person receiving any fee or commission in conjunction with the sale for export of such items (other than a person who is a bona fide employee of the manufacturer of such items), and the amount of such fee or commission.

HIGHER PENALTIES FOR CORPORATE CONSPIRATORS

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. HEINZ. Mr. Speaker, I am today introducing legislation aimed at increasing the penalties that a Federal court may levy against persons convicted of conspiracy to commit an offense against the United States or to defraud the United States. This bill would increase the maximum fine allowable under the conspiracy clause of the United States Code from $10,000 to $1,000,000 in the case of corporations, and to $100,000 in the case of individuals.

In many cases, the $10,000 ceiling on fines currently in the conspiracy law amounts to nothing more than a license for large corporations to steal millions of dollars from the consumer and to defraud the American public or taxpayer. To a company of any great size, a $10,000 fine cannot and will not serve as a deterrent when it stands to gain a thousand times more than that from illegal activities. The American consumer deserves decent protection against corporate fraud, and the current law simply does not provide that protection.

The case of the Bunge Corp., which was decided yesterday in Federal district court, is a perfect example of the ironic situation created by the unnecessarily low ceiling on monetary penalties in conspiracy cases.

According to testimony in that trial, Bunge was guilty of extensive corruption in grain export trade. Not only did the company misgrade its grain and bribe Federal grain inspectors, but it also hid stolen grain in a storage elevator at a rate of 25,000 bushels every 3 or 4 months for 9 years. It is estimated that Bunge accumulated millions of dollars in illegal profits from that one storage operation alone. But the judge in that case could only levy a $10,000 fine on each of the two counts of conspiracy to which Bunge pleaded nolo contendere. In announcing the penalty, Federal District Court Judge Jack M. Gordon made specific reference to the limitation on his judicial discretion imposed by this meager ceiling.

Mr. Speaker, it is nothing more or less than sheer absurdity to allow a company to take millions of dollars in illegal profits from the American people at so little cost to itself. In the *Bunge* case, Federal attorneys won a $2 million consent decree from the offending firm to prevent future corruption, but we cannot allow plea-bargaining to become the sole method by which justice can be done in a matter such as this. It is necessary to impose stiffer fines by law, or at least to give the judge sufficient authority to insure that the penalty does fit the crime.

The $1,000,000 maximum fine established in my bill is not without precedent in matters of this sort. In the last Congress, we raised the criminal penalty for corporations in antitrust cases from $50,000 to $1,000,000. That action was a progressive step in protecting the consumer and in insuring the proper functioning of our market system. My bill is a necessary followup to that decision to get tough with those unscrupulous operators—be they corporations or individuals—that would steal millions from the consumer. I hope my colleagues will give this bill the most serious consideration.

For the benefit of my colleagues who might have missed these stories, I would like at this time to insert in the RECORD two newspaper accounts of the *Bunge* case:

[From the New York Times]

BUNGE IS GUILTY IN THEFT OF GRAIN: COMPANY FINED $20,000 ON NO CONTEST PLEA—PLEDGES $2-MILLION FOR SAFEGUARDS

(By William Robbins)

NEW ORLEANS, October 8.—The Bunge Corporation, one of the world's largest grain companies, was judged guilty today after pleading nolo contendere, or no contest, to two Federal Counts of conspiracy in systematic thefts of grain and in a cover-up of the thefts and was required to spend more than $2-million over the next three years on procedures to guard against future corruption.

In addition to the $2 million commitment, the company was fined $20,000—a fine of $10,000 here on the theft conspiracy charge and a $10,000 fine in Houston for the cover-up.

In imposing a maximum fine of $10,000 here, Federal District Court Jack M. Gordon said. "This is not a difficult decision because of the limited punishment that the law provides and the fact that a corporation cannot be sent to prison."

The judge pointed out that a plea of nolo contendere was equivalent to a plea of guilty so far as possible punishment is concerned.

In a nolo contendere plea, the judge first must decide whether he will accept the plea. If he does, he then hears the evidence, makes a judgment of guilty or not guilty, and if he finds the defendant guilty, pronounces sentence.

Besides the criminal penalties, the company faces possibly heavy additional costs that could result from civil suits by Government, its customers and transportation companies.

The company's commitment to spend internal and external accounting procedures, reports, and the costs of extra supervision of its operations by the Department of Agriculture—was the result of plea bargaining that allowed Bunge to plead nolo contendere and avoid the embarrassment of a protracted trial and disclosures of details of its thefts.

The $2-million commitment was described by the United States Attorney here as an "unprecedented" result of plea bargaining.

The Bunge plea has no bearing on the cases of 13 current and former officials and employes indicted along with the corpora-

tion. Eight of those have pleaded guilty thus far to the theft charges or related offenses, and one has told the court he intends to plead guilty. Of the others, three await trial, and one has been told that charges against him will be dropped.

The Bunge Corporation was the first to be indicted among several large companies under investigation in a spreading inquiry into corruption in the grain export trade. The investigation, which began in New Orleans and spread to other ports, has resulted thus far in 57 indictments, including charges against four corporations and 53 individuals.

In the New Orleans area, a total of 43 defendants—both individuals and corporations—have either been convicted or pleaded guilty thus far.

The investigation was precipitated by the office of the United States Attorney here, Gerald J. Gallinghouse, and his chief assistant, Cornelius R. Heusel, pursued by, among others, the United States Attorney in Houston, and aided by the Federal Bureau of Investigation, the Agriculture Department's Office of Investigation and the Internal Revenue Service.

Since the investigation began, it has become one of the most extensive ever pursued in the United States. Several committees of Congress are conducting investigations, aided by their own investigative staffs and 41 agents of the General Accounting Office.

Under the plea-bargaining agreement between Bunge and the prosecutors, one of two felony counts was dropped in cases both here and in Houston. Thus, the company faced maximum fines of $10,000 in each of the two courts.

As is customary in cases where the defendant pleads nolo contendere, a simple outline of the facts of the cases was presented here and in Houston without contest or cross-examination by attorneys for the defendant.

In the case here, Robert J. Isakson, an F.B.I. agent, was put on the stand to describe how the company had conspired to steal grain from the customers.

SCALES MANIPULATED

The method used, he testified, was to manipulate scales at the company's grain elevator in the Port of New Orleans and record more grain on a tape than was put aboard ships for foreign customers.

Data presented in the Houston case were also made available here.

In the proceedings there, the case involved the methods used to account for grain accumulated in such thefts. According to the testimony, false records for "phantom" railroad cars, trucks and barges of grain were created, and records were falsified to make it appear that stolen grain to be shipped from the company's elevator in Galveston had actually been purchased.

The conspiracy, according to the testimony, involved telephone calls between the local elevator, the regional headquarters in Kansas City and the company's headquarters in New York City. Credit for the profits was also divided between Galveston, Kansas City and New York.

According to the testimony, about 25,000 bushels of stolen grain were accumulated in the Galveston elevator every three or four months. Such an operation could aggregate millions of dollars in illegal profits over the period of the conspiracy—from 1964 to 1973—in that elevator alone.

The company's commitment to spend more than $2 million—to guard against future thefts as well as other problems that have emerged in the investigation, such as misgrading of grain—were described by Mr. Gallinghouse, the United States Attorney here, as "unprecedented."

It includes funds to pay the salary and expenses of a compliance officer for internal and external auditors, and, for Government costs of increased supervision of the company's grain-shipping and grain-grading operations.

In a statement issued here, Mr. Gallinghouse urged similar "affirmative action programs" on other large grain companies.

In a statement issued from its New York office, Bunge described its affirmative action program as "voluntary."

The company added, "The now-resolved charges did not involve ongoing irregularities but instead related to unauthorized activities by local personnel pre-1971 at one location and pre-mid-1973 at the other."

[From the Wall Street Journal]

BUNGE NOW PLEADS NO CONTEST TO CHARGES IN GRAIN SCANDAL, VOWS CORRECTIVE MOVES

NEW ORLEANS.—In what the U.S. attorney here called "a most significant development," Bunge Corp. changed its earlier innocent plea to "no contest" to a grand jury indictment and also agreed to a sweeping "affirmative action" program involving its handling of grain.

Bunge, a privately held concern, pleaded "no contest" in federal court here and in Galveston, Texas, to charges of conspiracy to commit thefts of grain from interstate and foreign shipments at its port elevators at Destrehan, La., and Galveston from August 1961 to June 1973.

Bunge, the nation's third-largest grain-exporting company, originally entered a plea of innocent in August. The company's indictment last July was part of what has become a widening scandal involving grain handling in the New Orleans port area. So far, 52 persons and companies have been indicted on charges related to the scandal.

Bunge officials couldn't be reached immediately for additional comment.

Federal courts here and in Galveston assessed Bunge the maximum fine of $10,000 at each location for a total of $20,000.

The indictments had charged that Bunge and 13 former employes conspired to short-weight ships being loaded with grain at the two elevators and then tried to conceal the short-weighting through false records.

U.S. Attorney Gerald Gallinghouse said in New Orleans that the affirmative action program agreed to by Bunge was a "most significant development in our efforts to encourage the grain companies to clean up their own elevators. We hope this will set a pattern."

Under terms of the program, which Mr. Gallinghouse estimated would cost Bunge between $2 million and $3 million over the next three years, the company will undertake a program of self-regulation and self-policing to prevent recurrence of some of the alleged abuses in the grain-handling industry here and at other export centers.

According to Bunge, its expenditures for the three-year program will include:

$450,000 for 20% more federal appeal inspections at its Destrehan and Galveston elevators. Appeal inspections are second or third inspections made to verify original grading of grain.

$210,000 to employ an experienced compliance officer.

$450,000 to employ five internal auditors.

$270,000 to employ three additional auditors on the elevators' premises.

$150,000 for additional fees for independent certified public accountants.

$75,000 to employ an outside compliance consultant.

$400,000 for automation of the scales at the Destrehan and Galveston elevators.

The agreement also forbids all "actual and potential" conflicts of interest between elevator and inspection personnel. Bunge also must dismiss any employe who pleads guilty to or is convicted of any criminal charge relating to the handling of grain.

Bunge also agreed to maintain a system of internal and external audit controls with frequent visits by the auditors to each of its five port elevators and four terminal elevators in the U.S. It also agreed to ensure that scales at these elevators are tested periodically by an outside company to make sure they are tamper-proof and in operating condition. Periodic inventories also will be conducted at the elevators.

TO PROCRASTINATE OR TO PLAN

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. HARRINGTON. Mr. Speaker, an article by Leon H. Keyserling which appeared in Viewpoint—Second Quarter, 1975—"To Procrastinate or to Plan" has recently come to my attention. It deals with "Reconstruction in National Economic Policy," and it is my feeling that such proposals deserve the serious consideration of us all as we continue to experience high unemployment and inflation.

Leon Keyserling, who was chairman of the Council of Economic Advisers under President Truman, and is currently President of the Conference on Economic Progress, has set forth nine economic errors which have plagued our country since the end of the Truman administration when unemployment was a lowly 2.9 percent.

As Keyserling wrote, "we are now in the longest and deepest economic downturn since the Depression of the 1930's—the true level of unemployment in April of 1975 was 11.7 percent, or more than 10.5 million."

What changes must be made to curtail inflation, reduce unemployment and reach our production potential? These are the problems which Mr. Keyserling's article deals with. Therefore, I would like to insert the entire text in the RECORD at this time so that we may all be better able to understand the problems, and hopefully to implement the economic policies necessary to eliminate these pressing economic problems that have handicapped us for such duration.

The text follows:

RECONSTRUCTION IN NATIONAL ECONOMIC POLICY

(By Leon H. Keyserling)

We are now in the longest and deepest economic downturn since the Great Crash in the 1930's. In April, 1975, full-time unemployment as customarily measured was 8.9 percent, or about 8 million. The full-time equivalent of part-time unemployment was 1.7 percent. The concealed unemployment, those discouraged from actively looking for jobs by scarcity of job opportunity, and therefore not officially counted as unemployed, was 1.2 percent. Thus, the true level of unemployment was 11.7 percent,* or more than 10.5 million.

Through the degree of our failure to maintain full employment and full production from 1953 forward, the deficiency in total national production (GNP) in first quarter 1975 was about $300 billion at an annual rate. And even if we write off as lost forever a substantial part of the larger gains in productivity which would have resulted from 1953 forward if we had enjoyed a fully used economy throughout, the economy in first quarter was operating at an annual rate about $215 billion below reasonably full production.

---

* Discrepancy due to rounding.

This in itself meant a loss of more than $50 billion in public revenues at all levels of government at existing tax rates. With these revenues, we would have just that much more to apply to the sorely starved priorities of our domestic needs—housing, education, and health services; mass transportation and energy development; increases in other human well-being payments; income supports to overcome poverty among those really unable to work; and a number of other great domestic priorities requiring public outlays.

We cannot forge the programs and policies needed to lift us from where we are now to where we ought to be, unless we recognize that where we are now is neither new nor radically different in cause or effects from the troubles we have had before. From 1953 to date, we have five times repeated a fairly consistent pattern of inadequate upturn, stagnation, and recession or absolute downturn. With some ups and downs to be sure, we have in the long run moved further and further away from full employment and full production. And the processes by which this has happened have been due to essentially the same errors of analysis and defects in policy and program all along.

During the period 1953 through 1974 as a whole we forfeited more than $2.6 *trillion* worth of GNP (1974 dollars), and consequently forfeited in the neighborhood of $700 billion of public revenues at all levels which could have been put to very good use. Concurrently, we suffered more than 54 million man-years of excessive unemployment, true employment concept.

If we do not do much better in the future than we have done in the past—and I see no prospect of doing much better without drastic changes in national policies and programs—we will during 1976–1980 inclusive forfeit another $1.2 *trillion* of GNP and more than $300 billion of public revenues at all levels (1974 dollars), and experience another 16.5 million man-years of excessive unemployment, true employment concept. The ratio of unemployment to GNP loss would not be nearly as large as in the long past, because higher incomes and other factors increase the number of dollars received by each employed worker. But another 16.5 million man-years of excessive unemployment would be intolerable and dangerous beyond description.

What must we now start to do, as we decide not to piddle but to plan?

PURPOSEFUL PLANNING INSTEAD OF FORECASTS

The first error to correct is to substitute purposeful and planned goals for excessive emphasis upon pure forecasts. The President's January, 1975 Economic Report forecast 7.8 percent full-time officially reported unemployment in 1976; 7.5 percent in 1977; 6.9 percent in 1978; and 6.8 in 1979. The new Budget Committees in the Senate and the House forecast 7 to 7.5 percent full-time unemployment at the end of 1976. Instead of resigning ourselves to these alarming forecasts, we should at once set about resolutely to reduce full-time or officially recorded unemployment to about 3 percent by the end of 1977. After that, we should set about to do still better. Through setting specific quantitative goals and devising means toward their attainment, the morbid forecasts of what is going to happen should be reversed instead of vindicated.

This task is difficult, but not beyond our capabilities. President Roosevelt in early 1933, confronted by almost 13 million unemployed or 24.9 percent of the civilian labor force, did not ask for forecasts. Vigorous policies and programs were set in motion which cut unemployment about in half by early 1937. Thereafter through 1939, unemployment increased. But this was not because nobody knew what to do; it was rather because conservative or reactionary forces grew strong enough to prevent continuing what had been so well-started.

In 1939, unemployment was 9.5 million, or 17.2 percent of the civilian labor force. By 1944 it was reduced to 670 thousand, or 1.2 percent. World War II in itself did not do this. It happened because we recognized that jobs are more beneficial to individuals and to the economy than unemployment. And it was no easier to attain full employment through the process of making weapons of destruction than to attain it now through the happier process of meeting essential domestic needs.

President Truman, whom I served as Chairman of the Council of Economic Advisers, never asked me to forecast unemployment. He dedicated himself to the achievement of full employment, and by 1953 full-time unemployment was only 2.9 percent. Again, this was not just because of the Korean war. In 1972, when the Vietnam war was in full swing, full-time unemployment was 5.9 percent of the civilian labor force.

Full-time unemployment in 1961 was 6.7 percent, in consequence of the policies of the Eisenhower Administration during eight years. President Kennedy did not ask for forecasts; he commenced action, and President Johnson continued it. By 1969, unemployment was 3.5 percent.

Let us now turn to an examination of where national policies and programs have gone wrong, as a foundation for developing corrective measures.

MANAGEMENT OF THE PROBLEM OF INFLATION

A second reason why we have done so badly is that stagnations and recessions have been repeatedly contrived, responsive to the "trade-off" theory that higher employment and greater resource use bring more inflation, and that higher unemployment and more deficient resource use bring less inflation. Even today, an adequate program of economic restoration is being estopped by this false theory.

It is unconscionable that the full-time equivalent of more than 10.5 million breadwinners and their families suffer the distress and humiliation of unemployment, in order (hypothetically) that Mr. Keyserling may be able to buy a third car or another steak banquet for somewhat less than if unemployment were one-third or one-fourth that amount. More important, the empirical evidence for more than 20 years is that a healthy economy generates far less price inflation than a sick economy.

During the Truman years, 1947–1953, the average annual rate of real economic growth was 4.9 percent. Full-time unemployment averaged 4.0 percent and, as earlier stated, was reduced to 2.9 percent in the last year. Average annual inflation, despite the Korean war during almost half the time, was 3 percent, and was reduced to 0.8 percent during the last year. In vivid contrast, during the Nixon-Ford years, 1969–1974, the real average annual rate of economic growth was only 2.5 percent. Full-time unemployment averaged 5.1 percent, and was 5.6 percent in the last year. Inflation averaged 6.1 percent, and rose to 12.2 in the last year.

The most poignant example was from first quarter 1974 to first quarter 1975. The real economic growth rate was minus 5.8 percent. Full-time unemployment was 6.2 percent, and as earlier stated rose to 8.9 percent in April, 1975. The rate of price inflation was 11.2 percent.

The very recent reduction in the inflation rate from more than 13 percent to about 8 percent is not properly attributable to the false claim that this happened because we have continued to accept an intolerable amount of unemployment. It is rather because some of the transitory factors generating double-digit inflation have disappeared or waned. We would never have gotten up to 13 percent or even 8 percent inflation if we had maintained a healthy economy and the surest and best way to reduce inflation much further is to restore a fully healthy economy as rapidly as feasible. Under the goals and programs I recommend, I estimate that inflation might be reduced to 3 percent by the end of 1977.

THE TRUE FUNCTION OF PRICES HAS BEEN OVERLOOKED

The third reason for our troubles is that the true function of prices has been misinterpreted. Our real wealth and well-being are not determined by price trends per se, but rather by how close we come to full use of our resources, social justice in the allocation of resources and incomes, and taking care of the great priorities of our needs. Historically, rising, stable, or falling price trends have been contributory or inimical to these three great purposes, depending upon whether these price trends within the complex of other trends and policies have worked toward or against these great purposes in terms of the relationships between price trends and other trends.

The problem is basically distributive. For example, during most upturn periods, we have had profit-investment inflation and a lag in wages and other consumer incomes. If the actual price increases since 1969 had been in the context of policies successfully designed to achieve the great purposes, we would have made an acceptable bargain. But these same price increases, accompanied and augmented by national policies designed to maldistribute incomes and resources and thus to thwart these three great purposes, have been a cruel, indefensible, and stupid inflation. Such policies certainly ignore the true function of prices.

MISUSE OF KEYNESIAN ECONOMICS

The fourth persistent error has been the distorted use of the Keynesian economics in an aggregative or blunderbus manner to stimulate the economy when it is too slack, and restrain it when it is too tight. This approach feeds the fat and starves the lean. For, in fact, a deficiency or excess in total demand is due primarily to misallocations of resource use and incomes which destroy the balance essential to optimum performance. We must simultaneously restrain relative excesses in some parts of the economy and overcome relative shortfalls in other sectors. As already stated, the U.S. economic problem is essentially distributive, and current policies are not paying enough attention to this. Some still move in the opposite direction.

THE FALSE DICHOTOMY BETWEEN ECONOMIC AND SOCIAL GOALS

The fifth cardinal error is adherence to a false dichotomy between purely economic objectives and fulfillment of the priorities of our human and social needs. Even if vindication of these needs imported a somewhat lower rate of economic growth, we have become rich enough to value justice and human decency above progress narrowly conceived. However, under current and prospective technological conditions, the improved distribution of income, and the relative as well as the absolute enlargement of services to human welfare, are the foremost requirement for a fully used economy in conventional terms.

THE PROBLEM OF THE SELECTIVE SHORTAGES

The sixth important error is the prevalent thinking about selective shortages. Despite the actions of the Arabs, the shortages of energy, which include not only oil but also gas and electricity, have become critical rather than merely inconvenient because during long years we have not planned to expand energy in accord with full economic needs; actually, we have deliberately reduced energy expansion because we did not have nor even aspire to a full economy.

Critical shortages of food have not resulted because of a few "crop failures." Instead, for 20 years or longer, national farm policy fol-

lowed the false dogma that we were "overproducing" food, even while millions of Americans were malnourished, while we were exporting too little food to fight starvation elsewhere, and while millions of farm people were transferred to urban unemployment. In addition, domestic food and fiber consumption would have been much higher if income distribution had been better, and if the economy had been full. The shortages of mass transportation have been due primarily to the scarcity philosophy of the railroads, promoted rather than prohibited by such national policies as the approval of the Penn-Central merger. We have had shortages by misconception or neglect; not abundance through planning.

Even today, there are no shortages which should prevent us from moving toward full employment and full production by the end of 1977. And the shifts in the pattern of production and employment which are essential to this basic objective would be energy conserving, i.e., shifting more employment and production toward housing, mass transportation, educational and health services, and anti-pollution efforts.

THE FEDERAL BUDGET AND THE NATIONAL ECONOMY

The seventh error is that unfounded concern about the immediate size of the Federal deficit stands in the way of the needed stimulative measures. Recent pronouncements of the new Committees on the Budget in the Senate and the House do not set even tolerable goals for production, employment, and service of priority needs, and then shape the budget as one of many instruments to be attuned to these ends. Instead, these Committees have first decided what the budget and the deficit should be, and then resigned themselves to the miserable production, employment, and priority results which a budget of this type and size promotes.

The deficient average performance of the economy during the fiscal years 1971–1976 (1976 estimated) resulted in an average annual federal deficit of $25.1 billion, and $51.9 billion in 1976 alone according to the President's original budget. In fiscal 1976 dollars, the needed increases in the budget which I propose below would result in a deficit of $59.5 billion in that year.* But the average annual deficit during fiscal 1976-1980 would be only 14.3 billion. Further, the budget would be balanced by fiscal 1979, and would show a surplus of $7.5 billion in fiscal 1980 and $13.0 billion in calendar 1980.

THE LOGISTICS OF THE ECONOMIC PROBLEM

The eighth error, and in some ways the most important today, is the neglect of the logistics of the economic restoration task. As already stated, the economy today is running at an annual rate about $215 billion below reasonably full resource use. And toward achieving this reasonably full use and full employment by the end of 1977, we need an expansion of $295 billion in the annual total national production between now and 1977 as a whole. This goal is in 1974 dollars; it would be considerably higher in current dollars. We need to increase civilian employment by 8.4 million for 1977 as a whole.

Measured against this need, the $23 billion tax reduction is terribly inadequate, and is misallocated in large part. The "multiplier" effect of such tax reduction is relatively low, so that its total stimulative effect may be only in the neighborhood of $30 billion. This is why we should supplement the tax reduction with a $30 billion increase in federal spending above the President's proposed fiscal 1976 program. A large part of this increased investment would have a "multiplier" effect of about three, and would employ two to three times as many people per dollar spent as the recent type of tax reduction. This kind of federal budget, if the economic performance becomes optimum, would result in a budget considerably smaller in ratio to GNP in calendar 1980 than now.

Measured in fiscal 1976 dollars, I propose that the federal budget in fiscal 1976 be $379.5 billion, contrasted with $349.4 billion as proposed by the President, and that the budget be $470 billion in calendar 1980 (much more in current dollars). To indicate how these increases would serve the great domestic priorities, my proposals for fiscal 1976 would provide $30.1 billion more than the President's Budget for all domestic programs; $9.9 billion more for income security other than veterans and excluding subsidized housing; $8 billion more for manpower programs, including public and private service jobs; about $2.5 billion more for subsidized housing; $2.2 billion more for agriculture, natural resources, environment, and energy; $2.1 billion more for education; $2 billion more for health; and $2.6 billion more for transportation. The increases by calendar 1980 would be much greater, and the total Budget in fiscal 1976 dollars would be $120.6 billion above the President's fiscal 1976 budget. Outlays for health would be $22 billion higher than that budget. Outlays for housing and community development would be $11.6 billion higher than that budget.

THE NEED FOR A WIDER RANGE OF INTEGRATED POLICIES

The ninth error is excessive reliance upon fiscal policy. No fiscal policy, even if correct, can achieve the needed results if monetary policy continues to lean heavily in the opposite direction. And many other national policies need to be joined in the drive for a full and just economy. This includes, among others, social insurance, housing, agriculture, energy, mass transportation, and income distribution. We now have a confused medley of policies and programs, but no coherent policy or program.

THE NEEDED PLANNING EFFORT

Under the Employment Act of 1946, the President should set forth, for the guidance of all Executive programs and for submission to the Congress, a short-range and long-range program (under planning, the two are essentially one) directed toward restoration of full employment, production, and purchasing power by the end of 1977. These goals should relate not only to the volume of activity, but also to priority programs and the enlargement of social justice. They should involve broad quantitative analysis of the needed amount and distribution of purchasing power, both private and public, with appropriate stress upon equitable considerations.

The federal government, of course, would not fulfill all of these objectives. It would instead provide a perspective for the mutual efforts of private enterprise, voluntary associations, and governments at all levels. But the federal government would meet its bedrock responsibility to close the gap between these goals and what others do, and toward this end would fuse its manifold economic and social programs into a unified and consistent policy and program. These efforts must include, by legislation if necessary, changes in the policies of the Federal Reserve System to bring them to the support of the vital goals and policies to be set forth in the Economic Report of the President.

For reasons already set forth, I believe that these approaches are the best way to reduce inflation, and would prevent an unbalanced preoccupation with inflation as the top problem from turning us away from even more essential goals and giving us horrendous inflation to boot. But if controls equitably applied are needed for a time, they should be used, recalling that these worked effectively when they were sincerely and intelligently evoked.

The Hawkins-Humphrey Bill, introduced last year and now under active consideration in improved form as H.R. 50, makes a large start in these directions. That measure, and the testimony thus far offered, are worthy of the attention of all concerned with where we are now and need to go.

Planning is not in ideological conflict with our way of life. It represents an immediate and imperative step toward the intelligent deployment of our full economic capabilities, improved understanding and enlarged consciousness among an informed citizenry, and realization of the human promise of America.

* Smaller than the estimates of others, because more real economic growth is projected due to greater stimulative efforts.

MARCELINO INES, DISTINGUISHED CITIZEN OF CARSON, CALIF.

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. ANDERSON of California. Mr. Speaker, today I am proud to announce that Mr. Marcelino Ines has been chosen to receive the Distinguished Community Citizen and Humanitarian Award from the city of Carson, Calif.

Mr. Ines, or "Marcy" as he is known to his many friends, is truly deserving of this honor. He has been active in our area for many years, and charity and humanitarianism have marked his devotion to the people of our community.

A cofounder and chairman of the Carson Sister City program, Marcelino has been an active organizer of a fund-raising drive to aid typhoon victims in the city of Sinait, in Ilocos Sur, Philippines. School buildings, homes, and the city hall of Carson's sister city in the Philippines, will be repaired with money raised through Marcy's efforts.

Marcelino has also been active in benefitting his own community. As an agent for the Prudential Insurance Co., he was honored with that company's Community Service Century Award just last March. This award is of special significance this year as Prudential celebrates its 100th birthday. Out of approximately 60,000 employees, only 100 were honored with this unique award, and Marcy was certainly among those who most deserved it. In his name, $500 was donated to the community group of his choice—and considering his many activities, that must have been a difficult decision for Marcy to make.

As chairman of the Filipino Community of Los Angeles Harbor Area's fundraising drive, Marcy helped bring in enough money to repair and remodel the local community center, and to purchase equipment for the Eder Memorial Senior Citizens Center, and the Filipino Youth Club. He also served as a board member of the Filipino-American Optimist Club, chairing its youth oriented activities and raising money to support the club's boys' home. Marcy also was a volunteer worker during the Optimists' Youth Appreciation Week.

Marcelino Ines is also a board member of both the Filipino Community Action Services, and the Filipino Community of the Los Angeles Harbor Area.

Marcelino's interest in youth activities is understandable: his family includes three wonderful children along with his beautiful wife, Lily. I am sure they are all proud of the recognition he has re-

ceived because of his unselfish work in the community: few people I know are as deserving, as Marcelino Ines, Carson's outstanding humanitarian.

H.R. 8070—CONFERENCE REPORT

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. SCHEUER. Mr. Speaker, I wish to inform my colleagues that my vote against the amendment offered by Mr. BOLAND urging the House to accept the provision of the conference report on H.R. 8070, HUD appropriations, was a vote against the $50 million appropriation under section 8 which would provide for construction of public housing.

For decades, I have been an advocate of public housing and publicly-assisted housing. During my brief departure from these halls in 1973 and 1974, I served as president of the National Housing Conference—the national umbrella organization representing dozens of civic, religious, labor, business, and banking groups supporting public housing. Also, during the late 1950's, before my congressional service, I served several years as president of the Citizens Housing and Planning Council of New York—the Nation's largest and most influential citizens organization at the municipal level—in support of public housing.

Nevertheless, I must voice my dismay over the present state of Federal housing programs and their failure to meet the purposes for which they were established. While there remains an urgent need to provide adequate housing for the poor, we should reflect on the dismal history of our efforts to date to provide such housing—the large scale, high-rise projects in our central cities.

We have been building public housing in America for four decades and despite some early successes, we find today, that rather than helping to upgrade communities throughout the country, public housing furthers the decline and fall of neighborhood after neighborhood. Let's take a glance back at a few of our major public housing projects:

Stella Wright, Newark, N.J., built in 1960. It has 1,200 units of which only 500 are presently occupied.

Scutter Homes, Newark, N.J., built in 1960, facing Stella Wright. It has 680 units of which over 20 percent are separately unoccupied.

Columbus Homes, Newark, N.J., built in 1956. It has 1,556 units, 400 of which are presently vacant.

Raymond-Rosen, Philadelphia, Pa., built in 1954, has had all its units sealed-off above the sixth floor because of an inability to attract new tenants due to the already high percentage of welfare families living there.

Schuylkill Falls, Philadelphia, Pa., built in 1955, also has had all units above the sixth floor sealed off for the same reason as Raymond-Rosen.

Cabrini-Green Homes, Chicago, Ill., built between 1958 and 1964, has 3,587 units. There are 23 buildings with 18 stories. In any building with more than 14 floors, the upper floors have been sealed off.

And finally our most dismal failure, Pruitt-Igoe, St. Louis, Mo., built in the 1950's. Pruitt-Igoe has 3,740 units but was never fully occupied, and for the past 10 years has had only 40 to 50 percent occupancy. In every direction for blocks, this section of St. Louis resembles a bombed-out city, if only because the city has finally decided to dynamite this eyesore from its vision.

All these projects have common denominators which doomed them to failure from their inception. Each was designed for high-density family living. That is, these projects each contained more than 400 units which are located in buildings of 6 floors or higher. Each was designed to house almost exclusively working-class poor and welfare families. Traditionally families on welfare are those which have single heads of households with teenage children. Both of these characteristics combined with living in high-rise housing contribute greatly to inadequate parental supervision, in turn, which leads to vandalism and violent criminal activity. The alienation and dehumanization which accompanies such vast, large-scale projects, encourages juvenile delinquency.

When the working-class poor can afford it, they usually leave these housing projects because of the crime which occurs there. Welfare families do not move because they cannot afford to. As a result, the percentage of welfare families steadily increases until it becomes greater than 50 percent—making it even more unattractive to prospecitve working-class tenants. This results in the eventual disintegration of the housing projects—figuratively and in some cases, literally.

The solution does not lie in continued expenditures for public housing as it now functions but rather in a revamping of our housing concepts. To begin with, we must reclaim that which we have already built. Many of these projects could and should be converted into housing for the elderly. High-rises, when proper security precautions are taken, provide ideal housing for the elderly. The elderly are not very mobile, and need the security and comfort of close companionship. In addition, exclusive housing for the elderly is relatively easy to police because people who do not belong there can be easily recognized.

High-rises which are not converted into housing for the elderly must be altered in terms of population make-up. A mixture of up to 10 or 15 percent of welfare families is the maximum which high-rises can safely absorb. About 85 percent of each project's occupancy should be low and moderate income families above the welfare level.

For the vast majority of welfare families, a desirable living situation is in garden apartments and six-story complexes in smaller communities. This is because such small buildings and small communities do not allow for the anonymity which leads kids to believe that they can get away with vandalism and violent personal crime, unrecognized and untouched by the criminal justice system. Smaller buildings also afford greater parental supervision. But even with smaller housing projects it is necessary to keep the level of welfare families below approximately 30 percent of total occupancy. Unless this is done, the crime rates seem to become uncontrollable and projects eventually decline to the point of physical and social disintegration.

We have learned how not to house welfare families with children—especially the prototypical family with a female head of household with two, three, four or more rambunctious teenagers whom she cannot control. Her discipline problems become unmanageable when her family is housed in a vast project located in a central city. Such projects are crimogenic and are time bombs set in the neighborhoods in which they are placed, particularly when they are located in theretofore stable middle-class communities. One need only examine the history of public housing in the new predominantly middle class Southwest area of Washington, D.C. or the Arverne-Edgemere project built about a decade ago in the Rockaways—a middle-class bedroom community in New York City which I now represent—to see stark and irrefutable evidence of the crimogenic impact of public housing as it now functions in our large cities.

We should have a complete moratorium on building any more large scale, high-rise public housing projects for our welfare families in central cities or in middle-class areas of those cities, until we devise far more workable solutions than we have achieved to date.

OUR AID KEEPS MARCOS IN POWER

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. JOHN L. BURTON. Mr. Speaker, I would call the Members' attention to the following letter sent to President Ford by Col. N. L. Monzano. Colonel Monzano were a hero of World War II. He fought with General MacArthur in the Philippines. He is a respected member of the Filipino community and he knows whereof he speaks.

The letter follows:

OCTOBER 1, 1975.

The PRESIDENT OF THE UNITED STATES,
Washington, D.C.

DEAR MR. PRESIDENT: This is an urgent appeal.

I urge our government to withdraw its support to the Marcos regime before it is too late. Only our aid keeps Marcos in power.

His regime is tottering. When Marcos falls—and fall he will—our participation in keeping him in power will determine the attitude towards us by the succeeding Philippine government. Can we expect otherwise?

Opposition to Marcos in the Philippines is growing and becoming bolder. He is now purging thousands of civil service employees using the excuse of inefficiency or curruption. Actually, these are people who are now voicing dissatisfaction with the regime. A serious blow to the dictatorship was struck recently by the Philippine Civil Liberties Union.

Unlike its American counterpart, the Philippine Civil Liberties Union takes an active part in the political life of the Philippines and its membership is drawn from a select group of civic-minded political, legal and other intellectual leaders of the community.

Among the preesnt members are, a retired Chief Justice of the Supreme Court, several retired and active members of the Supreme Court, several ex-Senators and ex-Representatives, professors, publishers and other professionals, all with unblemished reputation for integrity. Because of the high regard these men are held in by responsable Filipinos, Marcos does not dare act against this open rebellion against his regime.

There is now talk in the Philippines to ask members of the uniformed services, through their relatives, to start forming cells of resistance to the regime. Because of the poverty and suffering of the people, a Portuguese type of rebellion may well succeed in the Philippines. Marcos may hold the personal loyalty of his generals, but we know generals without troops are a sorry lot.

I earnestly hope that my appeal to withdraw our support to Marcos is heeded. The national interest of the United States demands it.

Respectfully,

N. L. MANZANO.

(NOTE.—The Philippine Civil Liberties Union constituted the core of the resistance against the Japanese occupation during World War II. The writer was then the military leader of the organization.)

URANIUM ENRICHMENT

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. HORTON. Mr. Speaker, Senator HOWARD BAKER, in a statement before the American Nuclear Society on September 18, proposed that the Government provide the next increment of uranium enrichment capacity by adding on to one of its three present uranium enrichment plants. It will be recalled that the administration proposed on June 26 that the next plant, which is urgently needed to supply our requirements for enriched uranium to fuel additional nuclear plants, be built by a consortium of private industrial organizations, with a portion of its financing derived from investments of foreign nations. Senator BAKER stated he advocates that, at the same time the Government proceeds with an add-on plant, we also encourage private efforts, with whatever backup of Government guarantees are reasonable, to build the plants which will be needed after the Government addition is completed.

I concur in the basic approach Senator BAKER suggests for getting the next most urgently needed unit of additional uranium enrichment capacity. I do not believe we can finish building a completely new plant in time to meet this need under the proposed plan which envisions cooperative funding by a number of private domestic companies and foreign nations. In my view, it will take too long to make the necessary arrangements, especially since foreign negotiations are involved, to meet our more immediate needs. There will be adequate opportunity for the entry of the private sector after the add-on plant is completed, since additional plants will be required every year or two starting in the 1980's.

Adding on to the existing Government plant for the next unit of capacity is logical for a number of reasons. The Congress several years ago authorized preliminary design efforts to determine the best way to increase enriched uranium production by adding on to one or more of its three present plants. Much work has alrealy been done. ERDA requested and received authorization approval of both the House and Senate for continuation of its work on the add-on to the Portsmouth plant. Senator BAKER, although he took no credit for it in his prepared American Nuclear Society remarks, won the addition of $25,000,000 to the Senate-passed ERDA authorization bill for more construction planning and design efforts on an add-on plant. The availability of electrical energy to operate such a plant has also been checked, and it has been found that needs can be accommodated by the American Electric Power Company whose affiliates serve the area. It is fortunate that conditions are favorable for proceeding with the Government add-on plant since the schedule which must be followed to meet our projected needs requires the design work for the plant to be started early next year.

I realize that there are those who suggest that conservation and the recent history of decreased growth in demand of electricity make it unnecessary to add to our electrical generating capacity. Of course every reasonable effort should be made to eliminate energy waste and increase the efficiency in the way we utilize energy, but the problem cannot be completely solved in these ways. Major increases in the use of completely domestically controlled energy sources must still be made to meet our growing needs and to cut down on our foreign dependence on petroleum. Nuclear energy, which requires the production of more enriched uranium, and coal are the most practical energy sources to accomplish these goals. Therefore, we cannot chance running short of enriched uranium by not facing up to the long lead times needed to build enriched uranium production plants. Our present best estimates of requirements and construction schedules indicate, as I mentioned before, that the next uranium production plant must be started early next year.

Senator BAKER said that we must build more enrichment capacity soon in order to maintain international leadership in the field. He referred to the problem which would be created by the worldwide proliferation of enriching plants. He said that other nations may get in the business of supplying enriched uranium if we do not keep a lead in supplying this material. Foreign nations are already in the business of enriching uranium. The Soviet Union, for example, is performing enriching services for a number of nations and offering its services to others. A consortium of three nations—Britain, Holland and West Germany—are signing up customers. The French are also proceeding with an expansion program and soliciting orders. From these developments, the urgency of proceeding with our own additional production facilities is obvious.

The President has pointed out the importance of adding both nuclear and coal fueled electrical generating capacity. It should also be pointed out that, because of the lack of firm plans to add additional enriching capacity, all long term sales of additional uranium enrichment services were suspended over a year ago. This suspension is still in effect, and could be lifted immediately once the decision to proceed with the government add-on plant is made. This potential impediment to the utilization of nuclear energy could thereby be eliminated quickly.

Adding on to one of the Government's existing plants, as the interm step to meet our most critical needs for enriched fuel, has self-financing potentials which should be kept in mind. Financing data assembled by the Energy Research and Development Administration indicates that within about 4 years the outlays for enrichment with the addition of an add-on plant to the present Government enrichment plants will be liquidated by income from the sales of the enriched uranium which is produced. The data also shows that by approximately 1990, there will be a net accumulation of over $8 billion from the operation, over and above operating and fixed costs.

Senator BAKER also proposed that the Government proceed with the construction of the first centrifuge-type demonstration enrichment plant. This type of enrichment plant utilizes centrifugal forces in lieu of the gaseous diffusion principle of our present enrichment plants for separating uranium isotopes. The centrifuge technology was, for the most part, developed by the Government. It is an advanced technology which appears to offer economic and competitive advantages, although it has not been carried through a commercial scale demonstration phase. The administration's June 26 plan for enrichment proposed that the Government enter into cooperative agreement with private industry for the construction of several centrifuge demonstration plants. I believe the alternative proposal of Senator BAKER should receive consideration, but I do not believe the administration proposal should be abandoned at this time. A number of industrial firms have spent a considerable amount of effort in qualifying in the field of centrifuge enrichment. The proposals of private industry, which were due last week, should be carefully evaluated, and the route which offers the best path to the development of a commercial competitive base of centrifuge enrichment technology should be selected. Centrifuge technology should be aggressively pursued since it holds the promise of technological leadership in the future. Competition is intense in the field. A number of European nations and Japan are concentrating on this technique for uranium enrichment.

It is clear that if we do not obtain additional enrichment capacity on the schedule mentioned by the President in his June 26 message, two adverse consequences will result: first, the addition of nuclear energy generating capacity will be slowed down, and second, we will irretrievably lose international leadership in the enrichment field.

The bill proposed by the administration to authorize cooperative arrangements with private enterprise for the enrichment of uranium was introduced by Congressmen MEL PRICE and JOHN

ANDERSON—by request—on July 8. This bill, H.R. 8401, was referred to the Joint Committee on Atomic Energy. The Joint Committee, of which I am a member, expects to consider this legislation soon. I am sure the alternatives proposed by Senator BAKER will receive consideration at that time. Since this matter is directly related to the solution of our energy problem, it warrants our priority attention.

DECONTROL OF DOMESTIC OIL PRICES—A CRITICAL QUESTION

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. MAGUIRE. Mr. Speaker, as the critical question of whether or not to decontrol domestic oil prices continues to be debated, I would like to call to the attention of my colleagues a statement by Prof. Larry Falk, formerly an analyst with the Shell Oil Co. and now an economist on the faculty at Rutgers University, which he delivered to the New Jersey congressional delegation at a seminar at Princeton University on September 27.

I particularly wish to call attention to that part of Professor Falk's analysis which demonstrates that President Ford's decontrol plan would result in less, not more, production of domestic oil during any decontrol period of less than 10 years.

This restriction of production would result from the fact that it would be economically less advantageous for a producer to produce oil than to hold oil in the ground to wait for the higher prices he would receive later as the price curve for decontrolled oil moved rapidly upward on a 39 month, or 45 month curve—or any curve up to 120 months. On a 120 month decontrol curve the advantage of producing would outweigh the advantage of holding the oil—that is the costs of holding the oil would become greater than the gains from waiting for the higher prices—but 120 months is not Mr. Ford's proposal.

So, if Professor Falk's analysis is correct, not only will we have the adverse economic impact of Mr. Ford's phased decontrol plan, we will also have a drop in production—precisely the opposite of what is intended.

The text of Professor Falk's paper follows:

ENERGY IN THE FUTURE: HARMONY OR DISASTER?

(By L. H. Falk)

Whether or not the world is headed toward political and economic chaos will be largely determined by its future handling of its endowment of fossil fuels. The sudden quadrupling of the world crude oil price since 1973 is at least partly responsible for the severity of the present worldwide recession. Moreover, OPEC's crude oil prices which are now very high, and which are scheduled to climb even higher, will remain a serious threat to the survival of the world monetary system during the next decade. If the monetary system does weather the shocks of the next ten years or so, world demand for oil is expected to triple by the year 2000, and if this trend were to continue, it would be multiplied seven to nine times by the year 2025. When we look back at the damage to the environment associated with the trebling of fuel use during the last 30 years, we might well wonder how mankind itself could withstand another half century of unrestrained growth of fossil fuel output.

My introductory statements are intended to suggest some short, intermediate and long run goals for U.S. energy policy. In the short run we should not do anything that will worsen the existing problems of unemployment and inflation. Breaking the OPEC cartel seems a desirable intermediate run goal. Short run and intermediate run policy measures that may be decided upon in the very near future should not conflict with a long range goal of reducing—not increasing—the use of fossil fuels and replacing them as much as possible with cleaner forms of energy: power produced by harnessing the winds, waves, tides, gravity, and the energy of the sun (including, perhaps, clean fusion power).

My two objectives in this presentation are: 1) to examine the current domestic crude oil price control controversy, and 2) to argue for an oil import policy change, keeping in mind the short, intermediate and long range goals which I have suggested.

As you know, the President is opposed to price controls on domestic oil. A majority in Congress wants to at least maintain controls on "old" oil, and perhaps to extend controls to all domestic oil production. Paradoxically, both Congress and the President seem to share at least two reasons for their diametrically opposed stances: they wish to preserve American jobs and avoid stifling the growth of the national economy. Given the present state of economic theory, the confusion about how to achieve these objectives is indeed understandable.

I would opt for a firm set of controlled prices similar to those passed by the House early this week. I believe that domestic production has been falling off partly because producers have been holding back in anticipation of higher prices. If they knew what the future price was going to be, they would have no reason to hold oil in the ground. The House's proposed $7.50 price for new uncontrolled oil would lower the existing incentive to cut back wells with low production rates to the stripper well level of 10 bbls per day. (Stripper production is exempt from control, and 20 bbls. per day at $5.25 per bbl. is not worth as much to a company as 10 bbls, per day at the existing uncontrolled price of $13.50 per bbl.) Moreover, from the evidence of a Brookings Papers study conducted by Paul Davidson, Hoesung Lee and myself, $7.50 per bbl. is a price more than adequate to bring forth additional domestic crude oil supplies during the next few years.

The President's proposal to phase out price controls over approximately three years' time (actually 39 months, I think) could cause a significant further short term reduction in domestic output. Given a cost of capital of about ten percent, the cost of holding crude in the ground for three years is approximately $1.75 per bbl. If the price were allowed to rise from the current $5.25 to, say, $13.00 per bbl., the $7.75 price rise over the three years would greatly exceed the cost of holding back on production. The first diagram demonstrates the effect of a 36 month phaseout. The red line shows the per bbl. price allowed at any time over the 36 month period. The blue line shows the cost of holding one barrel of crude oil (including the $5.25 price not received by selling it now), and the vertical distance between the two lines shows the per barrel benefit to the producing company of holding the barrell of oil off of the market. The second diagram shows the effect of phasing out price controls over a ten year (or 120 month) period. Now the cost of holding a barrel of crude slightly exceeds the allowable prices over the entire period of phaseout. Obviously, there would be no incentive to hold back on crude production under this second arrangement. The conclusion: if there is to be a phaseout of price controls, it should be over a long period of time—as long as ten years. But any phaseout is only second best to a firm system of price controls; for many reasons, free domestic market prices cannot be expected to properly allocate the time rate of oil production. A firm set of controls would reduce unearned oil company profits without conflicting with desirable short, intermediate and long range goals. Unemployment and inflation would not be worsened; our ability to compete with OPEC would not be weakened, but we would not be doing anything to greatly increase fossil fuel production.

To achieve the intermediate range goals of breaking the OPEC cartel, with the desirable attendant reduction in Arab-country power over Western Europe and the Third World, I would argue for elimination of the seven sisters as purchasers of OPEC crude for the U.S. (The seven sisters, as you probably know, are seven major international oil companies.) The OPEC cartel has not broken down, as a cartel usually will (because of its members cheating on quotas), for two reasons: (1) the solidarity among the Arab producers, and (2) because the seven sisters willingly police quotas in non-Arab OPEC countries. The seven sisters oversee quota adherence for the Arab countries. To act differently would threaten their Arab oil concessions. For example, Aramco, the sole producer in Saudi Arabia is a combination of four of the seven sisters. These four companies must not purchase in excess of quota amounts outside Saudi Arabia, or else they will be in serious danger of losing their control of more than six million bbls. per day of crude production in Saudi Arabia.

To eliminate the seven sisters as producers, I strongly recommend the proposal to establish a federal agency as the sole purchaser of imported crude and petroleum products. (This proposal is contained, for example, in Senate Bill 1430.) In addition, I join my Rutgers colleague, Paul Davidson, in recommending that the agency's purchasing procedure require that sealed bids for 30 to 90 day contracts be rejected if the price bid is higher than the world price; four months contracts (say) should be rejected if bids are higher than five percent below world prices; year contracts should be at least ten percent below world prices; two year contracts 15 percent, and so on. Very long term arrangements could only be made at prices far below current short term price. This procedure would provide great incentive for OPEC members to cheat to gain a guaranteed profitable price for a long period of time. (Mideast crude production costs only about 15¢ per bbl.) The government purchasing agency would, in turn, sell its supplies to domestic refiners at market prices through sealed bids. This might involve government profits when the domestic market price is higher than the agency's cost, but it would then prevent refiners from receiving windfall profits. It might also involve government losses on long term contracts when the domestic refinery market price is lower than the long term purchase price abroad, but this would occur only when the cartel has been broken, and the necessary agency subsidy would be a small price for taxpayers to pay for the economic security we would have gained.

The two recommendations I have made would obviously not solve all of the world's energy problems, but they would work in the direction of the suggested short, intermediate and long term goals. Firm price controls on domestic crude would not worsen unemployment and inflation. Breaking the OPEC cartel would allow for expanded use of low cost (in terms of world resources) Middle East crude instead of expensive and environmentally damaging production of additional domestic crude (including Baltimore canyon-

offshore New Jersey) strip-mined coal, and radioactive waste-producing nuclear plants.

COLUMBUS DAY, 1975

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. AMBRO. Mr. Speaker, on October 13, this Nation will once again pay tribute to Christopher Columbus, a man of vision and daring whose voyages literally and figuratively changed the shape of the world in which he lived and altered the course of history. In our own high specialized technological age it is easy to minimize the import of the lonely journeys undertaken by Columbus and his crew in their three small, fragile vessels, the *Nina*, the *Pinta*, and the *Santa Maria*. However, nearly five centuries ago, one man was determined to act in the face of superstition and ignorance and despite every attempt to discourage him sailed westward and discovered two new continents—a whole new world. Taken in proper perspective, Columbus' mission must be judged far more spectacular than our own landing of men on the Moon in 1969.

In 1492, Spain was in the grip of an Inquisition that seemed to herald the victory of ignorance and intolerance over sanity and reason. But also in 1492 the explorations begun by Christopher Columbus were to open up new civilizations of freedom and liberty which would set the standard for the entire world. It is not an overstatement to say that because of Christopher Columbus civilization took a giant step forward.

Several years ago, the Federal Government took a long-overdue step and officially extended national recognition to the exploits of Columbus by making the second Monday of each October a national holiday paying tribute to this great Italian explorer.

In celebrating this holiday, we are not only commemorating the deeds of Columbus, but also the contributions to American society of all of the millions of Italian-Americans who have immigrated to the United States. As we celebrate our Bicentennial as an independent Nation, it is fitting that we take notice of all of the different groups who have made this country their home, and added to its greatness as a society. Italian-Americans have participated in every phase of this Nation's growth and development, and are represented in prominent positions in the arts, government, commerce, and industry, and the religious world. Indeed, the first American to be canonized was the Italian-born Mother Cabrini. American society is richer by far for the contributions made by Italian-Americans, who, like Christopher Columbus, have brought to this Nation gifts of spirit and faith—of challenge and awakening.

Mr. Speaker, as we celebrate Columbus Day this year, it will be my privilege to be the honorary Grand Marshal of the Suffolk County Columbus Day Parade which, this year, as in the past, will have hundreds of participants from all over Long Island proudly proclaiming their tribute to Columbus and to the Italian-Americans who followed in his footsteps by coming to this land and contributing so very much to its betterment.

A TRIBUTE TO BENJAMIN H. SWIG

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. SCHEUER. Mr. Speaker, upon occasion we become aware of remarkable individuals in our society who have amassed impressive honors and achievements in the world of business, industry, and finance. The history of American private enterprise is star-studded with names of men and women who have risen to spectacular heights in their business endeavors.

Rarely, however, do these towering business leaders possess the capacity for social concern, enthusiasm, magnanimity and selflessness not only to excel in the world of business, but also to give unsparingly of their superb leadership qualities in civic and community service as Benjamin H. Swig of San Francisco. If America is viewed around the world as the legendary land of opportunity, then surely Ben Swig is living testimony to the truth of that legend.

Ben Swig is the owner and operator of the famed Fairmont Hotel in the center of San Francisco—long a gracious landmark in the thriving Golden Gate City. While raising a family of three children with his devoted late wife, Mae, and maintaining the Fairmont as one of the Nation's finest hostelries, Ben Swig has somehow found the time and energy to be a director or advisor to 70 educational, religious, social and civic organizations. And at the age of 81, when most others his age are consigned to a shawl and a wheelchair on the front porch, he remains an active board chairman of the Fairmont and president of three other hotel companies.

As a symptom of his unfailing dedication to his fellow citizens across the Nation—and especially in the State of Israel—Ben Swig has received more than 135 personal awards and commendations. To date, this man has been cited by a vast variety of Jewish and Catholic organizations, the Boys' Clubs, NAACP, the Republics of Italy, West Germany and Korea, as well as the city of Paris; the Selective Service System, the ROTC, the Veterans of Foreign Wars, the Eagles, and the Salvation Army. To list more, one must include the U.S. Army, Air Force, and Coast Guard, the Veterans' Administration, the National Conference of Christians and Jews, the Scottish Rite of Freemasonry, local newspapers and a host of other educational and civic organizations. So far he has been granted five honorary doctoral degrees from U.S. colleges and universities, and has been notable for his support of the Stanford Research Institute and the University of Santa Clara.

Ben Swig has earned the tribute and esteem of such diverse groups as the Association of the U.S. Army, the Order of Merit of the Italian Republic, and the Jerusalem Medal.

Ben Swig has been preeminent in his devotion and commitment to the creation and the development of the State of Israel to which he has given of his prodigious leadership, as well as continuing magnificent financial support for over more than half a century.

Ben Swig has crammed such achievement and service into his ebullient 81 years that he honors all of us who are his countrymen and his friends.

Ben Swig personifies the American Bicentennial—the 200th anniversary of a country in which a Ben Swig can grow and thrive, and serve his fellow men with such unbounded energy, enthusiasm and compassion.

Ben Swig's work and devotion to the goodness of America is an inspiration to us all.

It is a privilege to know this great American who is one of the truly inexhaustible natural resources in all our Nation.

PULASKI DAY, 1975

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. AMBRO. Mr. Speaker, on Saturday, October 11, we will mark the 196th anniversary of the death of that outstanding Polish patriot who gave his life for our country during our Revolutionary War, Count Casimir Pulaski. His name is known to Americans, and to all who value freedom, as a person whose selfless contributions and sacrifices personified the ideals which gave birth to our Nation.

Born in 1748 in Poland to an aristocratic and distinguished family, Count Pulaski turned his back on a life of leisure and ease and spent the 31 years of his life fighting to free his native land from the yoke of slavery, and then traveled thousands of miles to a strange new land to assist a small band of young Americans engaged in a similar battle. His decision to join the American revolutionists is explained in his own eloquent words:

> I would rather live free, or die for liberty, I suffer more because I cannot avenge myself against the tyranny of those who seek to oppress humanity. That is why I want to go to America.

In the summer of 1777, Pulaski volunteered as a private in Washington's army and distinguished himself at the Battle of Brandywine. The Continental Congress then granted him a commission as a brigadier general and placed him in charge of the fledgling American cavalry. Following additional military action, Pulaski organized an independent corps of calvary and light infantry—the Pulaski Legion—and contributed to the successes of the American military cause throughout 1778. His aggressive and daring action inspired his men and intimidated the enemy as he moved into the South in 1779. His courage and determination helped save Charleston, S.C., from a superior force. During the fierce

siege of Savannah, Pulaski displayed undaunted courage in the face of fierce enemy resistance as he bravely led his cavalry into the thick of the battle. Mortally wounded, he was removed to the American brig *Wasp* where he died on October 11, 1799.

Casimir Pulaski, a Polish aristocrat fought and died for an American democracy. While he never lived to see a free America, he has become by virtue of his dedication and devotion, a true American hero and patriot. The banner of freedom Pulaski so dearly cherished and defended was passed on to other Poles who journeyed to the New World to search for personal liberty. Throughout this country, and in every walk of life, Polish Americans have contributed to the growth and progress of the Nation. Whenever the rallying call was "freedom" Polish Americans have answered eagerly and without hesitation. The heroic honor rolls of America's fallen sons during this century alone contain the names of multitudes of Polish Americans—just as the list of dead from the War of Independence contains the name of Count Casimir Pulaski and other who joined in the cause.

Mr. Speaker, I am honored to represent a congressional district which contains many Polish Americans. Like their ancestors and kinsmen throughout this Nation, these citizens have exhibited energy, industry, love of family and country, and devotion to duty which have added significant dimensions to the success of this great land. On this Pulaski Day, I salute a proud and gracious people.

MONDAY, OCTOBER 13, WE CELEBRATE COLUMBUS DAY

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. GIAIMO. Mr. Speaker, toward the end of the 15th century a self-made mariner from Italy dared the perils of the Atlantic and found a New World.

It is indeed appropriate that we have established the second Monday in October as a national holiday on which to reaffirm the faith, optimism, and creative vision which sustained Christopher Columbus on his journey and inspired his great achievement.

As an American of Italian extraction and as a participant on the official visit to Italy commemorating the first anniversary of the enactment of legislation declaring a new national holiday in honor of Christopher Columbus, I am particularly pleased to have played a part in establishing the official recognition we now annually give to this great Genoese navigator and explorer.

All Americans truly can share in the accomplishment of the man who led three fragile sailing ships to the shores of the Western Hemisphere 483 years ago this month, for the history of our country is the history of immigrants from other continents.

Overcoming uncharted seas and the threat of mutiny, Christopher Columbus symbolizes the independent spirit of America, the dedication to conviction and the perseverance in the face of adversity. His discovery opened the New World to the Old, and to the new idea that there could be established a land with opportunity for all and governmental authority vested in the people.

Mr. Speaker, Columbus Day offers all of us an opportunity to rededicate ourselves to the principles upon which our country is founded, and to the spirit which led to her founding.

A RESOLUTION OF PEACE

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. HANSEN. Mr. Speaker, I bring to the attention of my colleagues and readers of the CONGRESSIONAL RECORD a resolution of peace from the Basque community of America.

The Basque community of America, Mr. Speaker, is estimated at a population of 10,000 to 12,000 and is centered in southern Idaho, eastern Oregon, and parts of Nevada. They are among our most stalwart citizens.

A leader of the Basque community is Idaho secretary of state, Pete Cenarrusa. In the following resolution, Mr. Cenarrusa challenges America to act on behalf of probably one of the smallest minorities in our country—the Basques—and an oppressed minority in Spain.

We have read the headlines of the terrorism, murders, and executions currently taking place in Spain. This is a most serious matter causing great concern among the people of this Nation and the world.

Being of the firm opinion that tyranny and violence must cease, I present the following resolution to open a discussion on behalf of the Basque community of America who are most concerned for the rights and safety of the Basques in Spain.

The resolution follows:

RESOLUTION ON BEHALF OF THE AMERICAN BASQUE COMMUNITY OF THE STATE OF IDAHO TO THE GOVERNMENT OF THE UNITED STATES

Whereas, the history and traditions of this nation rest upon the principles of freedom from oppression and the rights of all citizens to life, liberty and the pursuit of happiness; and

Whereas, we believe that democracy and freedom, when denied in one country, stand threatened everywhere; therefore, it is our responsibility to bring to the attention of the people of the entire world that these very freedoms of the Basque people are threatened under the Franco regime in Spain today; and

Whereas, the Basque people have a long and glorious history of personal accomplishment and a devotion to the preservation of their national heritage; and

Whereas, the Basques have been denied the right to learn their own language, have been jailed, and have been denied their human rights by the Franco regime and are virtually threatened in their continued existence; and

Whereas, the Basques, who once enjoyed the oldest democratic republic in Europe, fought for the Allies in World War II; and

Whereas, the current "State of Exception" in the Basque provinces of Spain is resulting in the complete denial of all basic and fundamental, civil and humanitarian rights, and the imprisonment and torture of thousands of men, women and children; and

Whereas, the government of the United States has recently concluded negotiating a mutual security agreement with the Spanish government, guaranteeing millions of dollars in economic and military aid; and

Whereas, the Basques and other citizens of the State of Idaho believe that the Basque traditions of democracy, humanity, charity and mercy should be allowed to be carried on by the Basque people of Spain.

Now, Therefore, Be It Resolved by the American Basque Community of the State of Idaho and of the United States that we voice our strong belief that as a nation we should reward our friends and not our enemies, and we deplore any free and democratic nation providing assistance to a ruthless, totalitarian government, directly or indirectly.

Be It Further Resolved, That we urge all steps be taken to cause the Spanish government to cease and desist the denial of the Universal Declaration of Human Rights of Man, and insist that total general amnesty for all Basques and Spaniards now imprisoned or exiled for their political and social activities be extended by the Franco government, as well as the right of habeas corpus. We further urge that steps be taken to cause the Spanish government to immediately revoke the "State of Exception" in the Basque provinces of Spain.

Be It Further Resolved that if such steps are not carried out, the President of the United States, the Secretary of State, and the Congress of the United States take all necessary steps to withdraw all foreign aid and benefits to the Spanish dictatorship, and that the American government join the nations of Free Europe in severing diplomatic relations with the Spanish government, and further demand the expulsion of Spain from the United Nations.

100TH ANNIVERSARY OF ST. JOHN'S CHURCH

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. McKINNEY. Mr. Speaker, on October 18, the Rev. William A. Nagle is prepared to celebrate the centennial observance of the founding of St. John's Church, a church that has clearly become a landmark in the city of Stamford. I join with many others in wishing Reverend Nagle well in such a joyous occasion to commemorate the founding of a church so rich in history and tradition.

Truly a church created for and from the community, St. John's was founded over 100 years ago by Irish immigrants who came to settle near the center of town. Thus, from its beginnings, St. John's Church occupied a central location and grew along with the community surrounding it. By the 1870's the congregation has increased considerably, as a result of which the Rev. John Fagen, then pastor, recognized the need for a larger church. In a joint effort with the community, Reverend Fagen purchased the Atlantic Street property, its present location, and oversaw the original stages of construction. Although he did not live long enough to witness the completed structure, his successor, the Rev. Michael A. Tierney, made the church ready for dedication in 1875.

Over the years numerous changes have

taken place in the surrounding community that affected the parish church. In the 1960's approximately 4,000 families attended St. John's, but by the last census the figure had dwindled to a low of 905. The church that began with the community had started to disintegrate along with it. However, with the recent revitalization of the area and the construction of the superblock complex, St. John's is once again enjoying a resurgence in membership, drawing worshippers, as before, from the downtown area. To further establish its link with the entire community, St. John's, in 1971, abandoned the parish church and became one of the founding members of the Stamford Catholic Regional School System, Inc.

It is truly fitting and refreshing that on the eve of its centennial, St. John's once again stands committed to its original goal—to serve the needs of an ever-growing and newly vitalized community.

DELEGATE TO THE 15TH CONFERENCE ON MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. BADILLO. Mr. Speaker, from March 27–31 of this year, I was privileged to be a delegate to the 15th conference of the Mexico-United States Interparliamentary Group in Campeche, Mexico.

I would like to quote from the final joint statement by the heads of the Mexican and U.S. delegations:

> Ocean resources constitute a basic source of food for human consumption. It is therefore necessary to rationalize exploitation of these resources so that optimum and lasting yields can be obtained. Consequently, it is essential that at this stage of the Third United Nations Conference on the Law of the Sea, presently being held in Geneva, a compromise formula be achieved. A broad-based law of the sea treaty, founded on the principles of justice and equality, must be concluded as soon as possible.

The statement also says,

> Both delegations affirm that the points of agreement between our respective countries are far more numerous and far more profound than the points of disagreement, and both commend to their respective nations full consideration of that fact.

That to me is of critical importance. Our relations with Mexico continue to improve, and it is in our best interests that they continue to do so. I am fearful that were we to unilaterally institute a 200-mile limit on our waters, we would be tempting the Mexican Chamber of Deputies to retaliate. Our countries are too close, both physically and diplomatically, and our waters run together, literally and figuratively.

Mr. Speaker, there are many persuasive arguments on both sides of this very sensitive issue. But I have concluded that it is in the greater interest of this country, and its neighbors, to rely on the recommendations of the Law of the Sea Conference to set international policy. Therefore, I shall vote against this bill.

ENOUGH TO MAKE A MAN CRY

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. HANSEN. Mr. Speaker, the following letter from my constituent, Warren Barry, a small businessman in Twin Falls, Idaho, outlines his frustrations over what we are doing to him here with more and more rules and regulations.

It is enough to make a grown man cry.

Your day must have been better than mine, but perhaps you would like to share some of the problems that face any small businessman on any given day, particularly Monday.

First, my yard foreman walked in and announced that two men we had employed last week had quit on Friday evening. One indicated that he could get food stamps and unemployment. With a little welfare, he would not have to work for some time. The other had some unemployment coming from another job, and with food stamps, he did not have to work that hard. Off I go to the local Employment Security Agency, where I go through a whole waiting room of able-bodied people signing up for unemployment, in order to try and place an order for two men to work. My contact shrugs his shoulders and says he will find some men but that he has a whole list of unfilled jobs.

I return to my desk where I have the new requirements of the Equal Employment Opportunity Commission and we are trying to design a new job application form. Under your new requirements, it might as well be blank. We cannot, without being discriminatory, ask a person's sex, marital status, whether or not they have children, a person's physical condition, his criminal record, military status, age; except if over 18 and whether or not he owns his own home. How would you like to employ someone on your staff and not be able to know any of the above? We really need to know something about the people we hire for they are entrusted with our valuable material or money.

When I finish trying to work out this form, I will have to try to help design a new credit application to comply with the new Fair Credit Billing Act. We are told we cannot ask age, welfare status, sex, marital status, whether they own or rent, number of children, and we must respond to all applications in writing, within 30 days whether there is any available information or not. How would you like to try and operate and extend credit under these conditions? How can anyone hope to make any semblance of intelligent determination as to who constitutes a reasonable credit risk?

If there is any time left, I should run out into the yard and see if there are any saws left without a guard or storage rails left open for OSHA is due here any time again.

All we need is a little more Government harassment and regulation and our day would be complete. I really hope your day in Washington is better than mine here in Twin Falls.

CENTENNIAL FESTIVAL SERVICE AT ST. JOHN'S EVANGELICAL LUTHERAN CHURCH OF CHICAGO

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. ANNUNZIO. Mr. Speaker, I had the privilege to participate on Sunday, October 5, in the Centennial Celebration of St. John's Evangelical Lutheran Church located in the 11th Congressional District of Illinois which I have the privilege to represent.

St. John's Evangelical Lutheran Church has been serving the spiritual needs of our community for 100 years. Many of the parishioners who participated in the Centennial Service on October 5 were born in the vicinity of St. John's and are still members of the parish.

Dr. Oswald C. J. Hoffman, Lutheran Hour Speaker, St. Louis Mo., was present on Sunday, October 5, when the festival services were held, and gave a most stirring sermon which was appreciated by all of the parishioners.

Dr. John H. Lutz, Head pastor of St. John's, who has served as pastor since 1956, welcomed me at the door, and I was also greeted by Associate Pastor Hillman Fishher. At the end of the service, I had the privilege of addressing the parishioners for a few minutes.

I pointed out that the future of democracy is in the hands of the church because only the church can keep families together, and when families remain united, the church derives strength from that unity, just as democracy grows stronger because of that same unity.

It was a source of great inspiration to me to note that each of the parishioners had contributed in some way to the centennial observance of St. John's. I would like to mention especially that one of the parishioners, Ronald Prochnow, composed the "Anniversary Hymn" in honor of the occasion, and another parishioner, Don Pergande, designed the cover and did the artwork for the program.

Additionally, a "Centennial Proclamation" was written by Harold Weimer, president of St. John's Evangelical Lutheran Church; the members of the Murk Family will be serving on October 10 as centennial banquet entertainers; Henry Blanke, Sr., pastor of St. John's since 1937 and now pastor emeritus, will be the speaker at the October 10 centennial banquet; a special film "100 Years at St. John's" was produced by Mr. and Mrs. Charles Herron and will be shown on October 5; and many other fine events have been planned from now through September 1976 in observance of St. John's centennial year which began on October 3, 1975.

Since June 3, 1875, when St. John's was established to serve the spiritual needs of the community northwest of Chicago known as Mayfair in the township of Jefferson, it has performed an outstanding service to our community. Although I have mentioned only a few persons here because of limited space, I want to emphasize that St. John's has been successful in serving

the needs of our community because the parishioners themselves, in their own individual way, have contributed to the growth and stability of St. John's, which in turn has enabled their church to better serve their own needs.

I am pleased to have this opportunity to extend my best wishes to the parishioners of St. John's on reaching this milestone and in expressing the conviction that the strength of their heritage will enable them to continue to meet the challenges of the future with the same vision, determination, and good will that they have demonstrated in the past.

TALCOTT LAUDS NAVY BICENTENNIAL

HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. TALCOTT. Mr. Speaker, 200 years ago next Monday the Continental Congress presided over the birth of the U.S. Navy when they voted to arm a single "swift sailing vessel, to carry 10 carriage guns." That action, taken two centuries ago, set the course under which Navy men have swept the seas, and carried the Stars and Stripes to every part of this world, and well beyond.

In those early days a small group of brave men carried the fight to America's enemies, wherever they could be found. John Paul Jones, the father of the U.S. Navy, was to say on December 3, 1775, when he hoisted the American flag for the first time over the flagship *Alfred*, "I hoisted with my own hands the flag of freedom!" Later, in command of the *Bon Homme Richard*, he carried the battle to the very shores of the British Isles, and made good his boast, "Give me a fast ship, for I intend to go in harm's way."

The Continental Navy was a first step in a journey to freedom for America, and to honor and glory for those who would wear the Navy blue through the centuries. Mastery of the seas, and control of the sealanes, will always be critical to our survival as a free nation. The vast size of our country reduces our absolute need for foreign commerce, but our society and our economy have been based on a full and free commerce and communication with nations in all parts of the world. From time to time we have had to meet challenges from many sources to that freedom of the seas, but each time the U.S. Navy has carried the day.

Today, just as 200 years ago, America depends on a select group of blue water sailors to show the flag throughout the globe, and to defend American rights wherever they might be threatened. Today's Navy man is better equipped, better educated, and better supplied than John Paul Jones and his colleagues. But they are equally brave and equally able to survive any challenge to the flag.

Mr. Speaker, I join President Ford, Defense Secretary Schlesinger, and Navy Secretary Middendorf in commending the officers and men of the Navy on their bicentennial, and in telling them "well done."

THE UNITED STATES AND THE THIRD WORLD

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. DIGGS. Mr. Speaker, the following statement on "The Changing International System and America's Role," by Zbigniew Brzezinski, one of this country's foremost commentators on international affairs is, I think, exemplary of the kind of serious consideration the United States needs to display on a sustained basis with respect to the plight of the developing countries of Africa, Asia and Latin America. Our approach to the Third World must be a positive one of cooperation instead of confrontation, which can only prove counterproductive to America's long-term national interest. With the blurring of East-West polarity, North-South tensions between developed and developing countries increasingly defines international conflict, thereby demanding a coherent U.S. policy. Secretary of State Kissinger's proposals delivered to the U.N. special session on economic issues was an excellent beginning. However, as the following essay points out, that will not be sufficient:

[From the New York Times, Oct. 5, 1975]

THE CHANGING INTERNATIONAL SYSTEM AND AMERICA'S ROLE

(By Zbigniew Brzezinski)

The recently concluded debate in the special United Nations General Assembly concerning "the new world economic order" highlights the basic change that is now taking place in the international system as a whole. It is important that Americans see this change in its proper historical perspective and also appreciate its far-reaching and longer-term consequences.

The essence of that change can be expressed as follows: The international system is changing from a system designed to promote interstate peace to a system also designed to promote intrastate progress; from a system designed to make possible greater global economic productivity to a system also designed to enhance greater economic equity.

Changes of such historic proportions do not come about easily, nor can they be given in advance a precise definition. The process of transformation will necessarily involve protracted debates, clashing interests and values. It is bound to be full of inconsistencies and paradoxes.

For example, one of the most cherished principles of international politics is that of sovereignty and noninterference.

The new nations are particularly sensitive about it. Yet it is also these nations that are especially insistent that the international system increasingly shift the focus of its concern from a preoccupation with the preservation of peace to a greater concern with the promotion of global development, especially in order to obviate the existing inequalities in the material conditions of humanity.

To accomplish that objective, closer cooperation among nations, and a measure of interference in the internal affairs of some by others, will almost be inevitable.

Just as in our domestic societies, the shift from a government concerned with the preservation of order to a government concerned with the promotion of welfare has involved inevitably an expansion in the government's scope of social interference, so on the global scene the assumption of new responsibilities by the "system" vis-a-vis its participants is bound to involve limitations on national sovereignty, contrary to the desires of the elites of the many new nations.

The shift from an emphasis on productivity to a greater concern with global equity is similarly not going to be easy. A rapidly expanding world product is certainly less difficult to divide than one which grows more slowly. Yet lower rates of growth are likely in a system in which considerations other than those bearing on productivity are the point of departure for international economic decisions, and this will make more equitable and voluntary distribution of global wealth more difficult to achieve. The result might well be more conflicting demands and less chance of compromise.

These are thus changes of truly major dimensions; they involve changes both in basic values and in processes. Moreover, some of them are likely to be in conflict with our domestic standards and views.

Many might feel that international arrangements should not be concerned with social progress nor that we should sacrifice productivity to equity. Yet we must also realize that these changes are inherent in the far-reaching transformation of the political character of the globe that has been taking place during the century.

Until quite recently most of the globe's population has been politically pliant. This is now less and less the case—be it in Papua New Guinea or Bangladesh or in Portugal. We are witnessing today a rapid expansion in political awareness and an increasing activation of hitherto dormant masses.

Unlike the initial phases of the Industrial Revolution, when the way people lived tended to change more rapidly than how they thought, today—because of mass communications and education—the way people think is changing more rapidly than how they live. All this makes for higher political awareness, increasingly focused on the desire to eliminate the enormous disparities in the global standard of living.

This general mood is channeled through sovereign states, which today number approximately 150 and provide the basic framework for the political organization of mankind. The rapid expansion in the number of states from approximately 40 to 150 in the last 30 years, thereby altering drastically the distribution of voting power in the United Nations, has further enhanced the pressures for the transformation of the international system, of which the recent special General Assembly session is but the latest symptom.

The American response to these changes has been hesitant and, until very recently, lacking in foresight. The basic predisposition has been to avoid facing the emerging realities, to delay change, to use the Organization of Petroleum Exporting countries as a specter, rather than to try to give more positive and responsible direction to the inflamed emotions and often unrealistic aspirations that these fundamental changes have been generating.

This is why the recent American initiative taken in the special General Assembly is so much to be welcomed. The speech presented by Ambassador Daniel P. Moynihan on Secretary of State Kissinger's behalf, in which the United States called for the creation to assure the developing countries greater opportunity and stability for their development, contained a realistic and thoughtful program, though much overdue.

It received, deservingly, a positive response, and it averted an immediate and divisive North-South confrontation. It helped to focus debate on practical and serious aspects of the problem, searching for concrete solutions, and avoiding the rhetoric either of confrontation or of illusion.

It represented a much-needed step toward a more responsible—and less doctrinaire—discussion of what can be changed in the existing global arrangements.

It would be wrong, however, to assume that the danger inherent in the pressures for a fundamental transformation of the international system has been averted. The United States has bought time, and that in itself is a precious thing and a major accomplishment.

But should it turn out that all that the United States had in mind was to buy time, should it turn out that the measures proposed to the United Nations by Mr. Kissinger have been essentially of a cosmetic character, then the long-range costs of the disappointment and iritation thereby engendered will be enormous.

A new and more violent cycle of confrontations will be set in motion, with the United States threatened increasingly by isolation and worldwide hostility.

This danger was averted during the special session and the contrast between the thoughtful presentation of the United States and the totally empty Soviet rhetoric spoke well for the United States and for its role in the world.

What is now needed is sustained and serious follow-through, based on Congressional suport and broad popular understanding of the need for a truly historical effort to update and reform the international system.

In the post-Vietnam mood of abnegation made grimmer by the present recession, the notion that American initiative and leadership are needed might not be very popular—but their absence could make for an international system that provides neither peace nor progress.

CASIMIR PULASKI DAY

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. BLANCHARD. Mr. Speaker, on Saturday, October 11, Polish Americans will honor one of our country's greatest Revolutionary heroes—Casimir Pulaski.

Casimir Pulaski is rightly honored, not only as a patriot of our Nation's youth, but also as a man who risked, and finally gave, his life to the cause of freedom for the oppressed of his own nation and others.

In Poland, he joined at a youthful age in open rebellion against Russian domination of that country. Although his efforts met with failure, he persisted for several years in attempts to rouse opposition to Russia's autocratic monarchy.

After being reduced to poverty, he joined the Continental Army as a volunteer in 1777, at a time when freedom fighters from many nations were joining the cause of the united colonies.

During the following 2 years, he advanced to the rank of brigadier general before being fatally wounded in the Battle of Savannah.

Mr. Speaker, it is a mark of the great good fortune of our Nation in its early years that men of the caliber of Casimir Pulaski were attracted to its battle for freedom.

The debt we owe to Casimir Pulaski and others can never be fully repaid.

Today, as a mature Nation of many creeds, cultures and peoples, America has reached the greatness which they foresaw so many years ago.

Let us, therefore, join with all Americans of Polish descent in paying deserved tribute to a great and courageous American—Casimir Pulaski.

SUPPORT OF HOUSE RESOLUTION 683

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. JOHN L. BURTON. Mr. Speaker, I supported House Joint Resolution 683 which provides congressional approval for the utilization of 200 volunteer civilian personnel who are private contractors to monitor the Sinai Peace Agreement between Egypt and Israel.

This resolution and the committee report clearly states that the approval of House Joint Resolution 683 in no way commits the Congress or this Nation to any action besides the authorization of up to 200 volunteer civilians to serve as private contractors to monitor the peace agreement.

The basis for my support is the fact that both sides involved in the Israeli-Egyptian War sought utilization of volunteer American civilians and that these persons would solely be volunteers monitoring the peace and serving the cause of peace.

As an early opponent of American involvement in Vietnam, where this country sent military advisors to provide aid and support in a war on the side of one of the combatants, I can, and easily do, distinguish America's role in South Vietnam where we were, in fact, initially providing military advisers, and wound up as combatants ourselves, from the peacekeeping role of these civilian technicians.

One of the greatest threats to world peace is the Middle East. I do not say that the Sinai Agreement would guarantee peace in that area. I do feel, however, that this agreement between Israel and Egypt for the first time provides a basis and possibility for lasting peace in that troubled part of the world. It is definitely in the best interest of our Nation to help bring stability through peace not only to that area of the world, but to all peoples. Should a new major war break out in the Middle East, there is no telling whether or not it would be confined to that section of the world, or would in fact trigger a nuclear holocaust.

Since the early 1960's I have been active in the peace movement and in the fight for nuclear disarmament. I feel that my vote on this issue is consistent with my dedication to the cause of peace. Throughout the years, the instability and off-and-on conflict in the Middle East has caused great concern to the people of this Nation, and great amounts of taxpayers' dollars.

A program of lasting peace in the Middle East would not only lessen the possibilities of potential nuclear holocaust, but would also have the effect, in my judgment, of lessening American expenditures in that area, as well as having an impact on the economic blackmail of the oil-producing nations in the Middle East.

As the committee report and floor debate have brought out, the adoption of this resolution in no way commits one American military person to be involved in the Middle East conflict. I would point out that at the present time there are as many as 20 to 30 Americans serving in the United Nations peace-keeping buffer force in the Sinai area. Therefore, the introduction of volunteer civilians to the Sinai to help monitor the peace agreement in no way can be considered as opening the door to American military involvement. Rather, I consider the Sinai Agreement to be the first time the door of opportunity to lasting peace in the Middle East has been opened in almost 30 years. This can only benefit this Nation and all the nations of the world.

THE VALUE OF THE BREEDER REACTOR CONCEPT

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. HORTON. Mr. Speaker, the October issue of Fortune contains two comprehensive articles by Dr. Ralph E. Lapp on uranium availability and the potential of the breeder reactor in providing virtually limitless sources of energy from the nuclear fission process. Dr. Lapp is a nuclear physicist with nuclear experience extending back to the development of our first nuclear weapon. He has for the past decade concentrated on fossil fuel sources.

The two complementary articles are entitled, "It's a Long Haul From Mine to Reactor" and "We May Find Ourselves Short of Uranium, Too." I highly commend them to all who are interested in solving the serious energy dilemma we face.

I would like to invite special attention to Dr. Lapp's comments on the potential of the power breeder reactor. The two paragraphs I am referring to are the following:

> Among other things, the power breeder would let us tap the energy in the uranium tailings that are now stored in 20,500 green-painted steel vessels at Oak Ridge and other sites. These vessels contain over 200,000 tons of discarded uranium. Since its U 235 content has been depleted, the uranium is not useful at present as a nuclear fuel and lies in a dormant condition.
>
> This stockpile of uranium tailings can be used for plutonium production in future power breeders—a technological metamorphosis that would convert the dormant uranium into energy equal to that in over 400 *billion* tons of coal. That's about as much coal as the U.S. has underground in recoverable form—and the tailings are all above ground, neatly packaged, ready for future use. If the dormant uranium in U.S. stockpiles were valued at the equivalent price of $50 per ton of coal, a price that some utilities have already had to pay in the spot market, then it represents a fuel asset worth $20 trillion. Yet opponents of the power breeder carp at the $10-billion cost of the breeder development.

In other words completing the development of the breeder reactor and putting it into use will provide a virtually limitless supply of energy without digging one more shovel of uranium. The rela-

tive cost of obtaining the breeder reactor versus its potential monetary value when figured in terms of equivalent energy costs is one very important point to keep in mind also. The data indicates that at a cost of approximately $10 billion to complete the development job the energy value such a system will produce will approach $20 trillion. It is difficult to understand that there are those objecting to investing the $10 billion for completing the job of developing the breeder, which is now in the final commercialization stages, considering the importance of the breeder to the future of our Nation.

THE BUSIEST AIRPORT IN THE WORLD

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. MILFORD. Mr. Speaker, Members of Congress from New York, Chicago, Los Angeles, Dallas or Fort Worth, and Atlanta often brag about their busy airports. O'Hare International, in Chicago, currently claims to be the busiest airport in the world, with an average of 1,890 aircraft operations per day. O'Hare is followed by Los Angeles with 1,357 operations; Atlanta with 1,287; and New York's Kennedy with 1,009 operations per day.

On any given day each of these huge airports must groundmaneuver and park up to 250 airplanes—mostly huge jetliners—on the field at one time. Literally thousands of people including FAA air traffic controllers, ramp attendants, dispatchers, fuel service personnel, baggage handlers, food service people, mechanics, meteorologists and a horde of others are required to keep the planes landing, parking, taxiing, and taking off.

I think all Members, plus thousands of aviation pundits are going to be shocked to learn that the busiest airport in the world is Whittman Field in Oshkosh, Wis.

Now while you are digging out your magnifying glass to search the map for Oshkosh, Wis., let me hasten to add that the entire full-time airport operation's crew members less than 100—plus one walkie-talkie-equipped character in a topless red Volkswagen.

While O'Hare, with its estimated full time operations personnel complement of 34,000 people—Chicago's second largest employer—moves more than 1,890 airplanes in and out of the field each day, and parks about 250. I was present at Whittman Field the day that 16,232 airplanes moved in or out of the field and over 5,000 airplanes had to be parked.

How is such a miracle possible? Well, it starts with the walkie-talkie-equipped character in the topless red Volkswagen.

The name of this miracle man is Paul H. Poberenzy. He is the founder and president of the Experimental Aircraft Association—EAA.

EAA is a world wide organization with over 43,000 active members and over 500 local chapters in the Free World.

The EAA'ers, as they call themselves, are a dedicated group. To say that they are flying enthusiasts would be a vast understatement. Many people like to fly and such a love is, indeed, not uncommon. The EAA'ers not only like to fly, but also like to build their own airplanes, or to redesign and modify an existing aircraft model, or restore and resurrect an aircraft of the past, or—in the last resort—to keep his standard make aircraft in superior mechanical condition.

In short, the EAA'er is a modern-day pioneer. He continues to seek the greener pastures of aviation—not in the sense of an idle dreamer, but as a practical engineer seeking the perfect machine.

I think it is very important to emphasize at this point, that the EAA'er is usually not an engineer or even a qualified aircraft mechanic. With very few exceptions they are among the nameless faceless horde of people, with whom most of us are in contact each day. They usually—but not always—are capable pilots.

Amateur aircraft building began in 1903 when a couple of bicycle mechanics got the peculiar notion that they could build an apparatus that would fly—and did.

The EAA'ers are purists, perfectionists, and, insatiable explorers. As far as they are concerned an airplane must be of the highest caliber, best design, and maintained to perfection with tender loving care. Every spare moment of his time away from work and family is devoted to his dedication of "making it better."

In the mind of typical EAA'ers, the perfect airplane is the one he is currently building, restoring or modifying. This notion prevails—until he finishes his project. Usually a few hours of flying time, after he completes his months, sometimes years of building, the restless EAA'er begins to think of a way or an idea that would make his plane "better." More often than not, the plane goes back to his hobby workshop in his home garage or whatever nook he has been able to obtain to do his work.

The amateur aircraft builders' insatiable appetite for perfection, his unquenchable thirst for improvement, and his never-ending love for flying has been one of the staunch cornerposts of this Nation's lead in aviation technology. He is the restless "tinkerer," in the junky home garage work shop or the cluttered back rooms of old hangars, who becomes the inventor of innovations which create jumbo jets and SST's. The products and ideas of the amateur aircraft builder are primarily responsible for America's vast lead in the use of general aviation airplanes.

Now let us return to the "World's Busiest Airport" and its unlikely location at Oshkosh, Wis. Particularly, let us return to the walkie-talkie-equipped character in the topless red Volkswagen with a name few can pronounce—Paul Poberenzy.

We often read in the newspapers about the "leaders" in Washington, or in the statehouses and courthouses of our Nation. We also often read of the leaders in business or industry. But Paul Poberenzy is the type of true leader that few citizens have ever heard about. His name is never seen in banner headlines of our newspapers or heard on the national TV newscasts. Yet, his work and dedication have indirectly brought about a major impact on our entire national economy. As the President of the Experimental Aircraft Association—EAA—he is the leader, the dean, of the airplane tinkerers of the world. Paul is a pretty good psychologist and observer, too. His keen sense, in his respect, in fact, was the germ that spawned EAA.

The amateur aircraft builder has a basic psychological need—he has got to exchange ideas with others possessing similar interests. The psychologists have a fancy term for this need, but most people would simply call it the ability to "think out loud." By talking to others, with mutual interests, we clarify our own thinking, share ideas, and thereby move on into uncharted areas.

The amateur aircraft builder, who is normally not trained in either aircraft engineering or mechanics, has a peculiar problem. He has to begin by self-study in aviation basics. What is more, the amateur receives little or no help from professional aircraft mechanics and engineers.

As any person that frequents an airport can tell you, the professional aircraft mechanic is most often a "loner." He does not usually like to talk to people. He makes his living because of his knowledge and skill. His income is directly dependent on "time applied to task." In short, he does not like to discuss his work with people in general and the amateur aircraft builder in particular.

The professional aviation engineer, designer or aerodynamist is also a person with a "hang-up." He usually can communicate only by means of mathematics, formulas, and accepted theories. The amateur simply cannot understand him. Therefore, the amateur aircraft builder and tinkerer seeks out others with amateur interests to satisfy the psychological need to exchange ideas.

In 1953, Paul Poberenzy recognized this need and founded the Experimental Aircraft Association, beginning as a small group of enthusiasts at Milwaukee's Timmerman Field.

This year the annual Experimental Aircraft Association met—at the "World's Busiest Airport" and attracted 275,000 aviation enthusiasts. A total of 1,338 home-built airplanes were on display by owners who had spent months and years building, restoring, and modifying them. This does not count some 4,000 other aircraft parked during the "fly-in" in every nook and cranny of the 700 acres allotted to convention operation at Whittman Field's 1,100-acre airfield. Nor does it count the 8,000-plus transient aircraft that flew in and out of Whittman Field during the one-week event.

In the general public area was the new and much expanded commercial exhibit building which this year housed 162 booths. This was certainly a big step from the days when the convention was held at Rockford, Ill. and a few EAA members spread their wares out on the dirt floor in a tent. Displaying their products this year were such well-known

aviation names as Collins Radio, Beech Aircraft, Piper, Bellanca, Mooney, Taylorcraft, Grumman-American, Champion Spark Plug, FAA, Private Pilot, and Air Progress magazines, Teledyne Continental, AVCO, Lycoming. Narco, Avionics, NASA, Bendix Corp., and many others. There were a total of 197 exhibits, 148 of which were located in the building.

One of the highlights of the convention this year, and every year, are the forums conducted simultaneously in the various areas of the convention site and which provides a wealth of information for the veteran aviation enthusiasts and the newcomers. These forums covered every aspect of sport aircraft, including design, operation, maintenance, and construction. Present were numerous designers of custom-built aircraft and who fielded questions and led discussions on their brands of sport aircraft. These included such names as Ken Rand, Ladislao Pazmany, Bob Bushby, John Monnett, John Dyke, Jim Bede, Pete Bowers, Dick VanGrunsven, Molt Taylor, Nick D'Apuzzo, LaMar Steen, Dr. Igor Bensen, Steve Whittman, Jim Osborne, Burt Rutan, Gene Turner, Jim Miller, and many others. All of these men contributed greatly to the central theme of the convention education. Where else could one go and benefit from this type of experience?

If you could have seen the beehive of activity this year at Whittman Field's EAA convention and fly-in, you would quickly agree that it is the "busiest airport in the world." The visual mosaic is a flight pattern of homebuilt and antique aircraft to the south and east with landings on runway 18, simultaneously with itinerant aircraft streaming in to a landing on runway 27, with an occasional departure sandwiched in between—all of this coordinated by a special team of FAA air traffic controllers brought to Oshkosh to help the local controllers during this gargantuan event. One has to agree that to experience 7 days of this incredible activity with only one mishap—and that due to vortex from a helicopter—is a mind boggling feat. The uninitiated might call it luck. But it certainly is not. If you knew the background you would know that it was strictly the result of careful planning and adherence to procedures developed and executed for this event—plus the walkie-talkie-equipped character running around in his topless red Volkswagen, Paul Poberenzy. Red One, as he is known, is never without his walkie-talkie and his little VW touring car. He is visible to all and just his "being there" keeps everyone in line because of a deep respect for him and for what EAA represents.

During these 7 days, there is a daily briefing of all pilots who are going to fly locally, and after they thoroughly understand the "rules for the day" each pilot is issued a colored card—a "pass" which must be shown to the traffic controller for permission to taxi into position for takeoff. In addition to the tower operation, another crew of controllers are stationed at the takeoff ends of the runways to direct traffic by visual means—paddles—similar to landing and takeoff on a Navy aircraft carrier.

A final observation will confirm my statement that Paul Poberenzy is, indeed, a major leader. As the mingling mass of 275,000 fascinated visitors gaped at airplanes, ate tons of hot dogs and drank barrels of soft drinks, not a single piece of debris could be found on the ground.

We have all seen pictures of the vacated ground following rock festivals, county fairs and other public gatherings. The area usually looks like the results of a tornado moving across the city dump.

While Paul Poberenzy has no legally vested authority or commission, true leadership became evident as he marshalled hundreds of disciplined and dedicated volunteers to man the often menial tasks required to keep the show going. Parking cars, hauling trash, directing traffic, moving booths, acting as messengers and keeping kids out of propellers were just a few of the volunteer tasks.

The entire crowd became "volunteer" in the sense that they were constantly reminded not to throw trash on the ground. If someone ignored the request or forgot to comply, a nearby EEA'er would remind him or simply pick up the trash and place it in a deposit. Even the so-called "high and mighty" were not exempt. One U.S. Congressman threw an empty cigarette package away, only to be promptly reminded by an EEA'er: "We do not throw paper on the ground here, sir." The EEA'er picked up the paper. The Congressman's resulting embarrassment will forever remind him that paper should never be thrown on the ground anywhere.

While New York, Chicago, Dallas-Fort Worth and Los Angeles will continue to regularly employ thousands of people to handle their flights, they can no longer boast of being the busiest. The world's busiest airport at Oshkosh, Wis., will be breaking new records again next year with its complement of a few regular employees, a horde of dedicated volunteers and a walkie-talkie-equipped character in a topless red Volkswagen.

GILMAN SUPPORTS SCHOOL LUNCHES AND NUTRITION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. GILMAN. Mr. Speaker, this week, along with a vast majority of my colleagues in both Houses, I voted to override the President's veto of the National School Lunch and Nutrition Act and amendments. While I staunchly support fiscal responsibility and have sought a reduction in the Federal budget, I believe that the veto of this vital measure was improper.

The National School Lunch and Child Nutrition Act assures a proper diet for a large number of women and children throughout our Nation. In southeastern New York alone, some 50,000 youngsters and women will be able to continue to receive assistance through the national school lunch and milk programs, the women, infants and children—WIC—program, Head Start, and other day care programs as well as programs sponsored by a large number of hospitals, shelters, and orphanages. Without this funding, these programs would all be substantially curtailed and some of these programs would be discontinued completely.

In this time of economic stress, it is of utmost importance to closely scrutinize both the costs and benefits of all new and existing Federal programs. Along with my colleagues, I concur that the cost of the School Lunch and Child Nutrition Act is but a small price to pay to make certain that our Nation receives a sound diet. Sound bodies and sound minds will help us build a better nation.

TECHNICIANS TO SINAI

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. PRESSLER. Mr. Speaker, my purpose in voting against sending technicians to Sinai was in no way based on a lack of support of Israel or desire for peace in the Middle East. It is based on some very firm convictions that I acquired while serving in the Army in Vietnam. I am very skeptical about stationing U.S. personnel overseas at this particular point. I would support sending U.N. personnel or a consortium of nations' personnel. I realize that this delicate agreement requires that Americans be sent to Sinai; and I also realize that supporters of the bill felt that the whole thing might fall through if we do not send U.S. personnel. The bill passed overwhelmingly and if that is the sense of the Congress, I will certainly give support to our people who are over there.

I wanted to make it very clear that my objections were in no way based on any weakening of my support for the State of Israel nor were they in any way based on a lack of desire for peace in the Middle East. I believe that the United States has vital interests in seeing that there be peace in the Middle East.

CONSTRUCTION INDUSTRY STABILIZATION ACT

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 9, 1975

Mr. McDADE. Mr. Speaker, I was unavoidably detained and unable to cast my vote in favor of H.R. 9500, the Construction Industry Stabilization Act, on Tuesday, October 7, 1975. I wish to clarify for the record, that had I been present, I would have voted aye.